



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. CALIFORNIA AFRICAN AMERICAN MUSEUM

NOTICE OF INTENTION TO ADOPT A CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA AFRICAN AMERICAN MUSEUM

NOTICE IS HEREBY GIVEN that the California African American Museum, pursuant to the authority vested in it by section 87300 of the Government Code, proposes its Conflict-of-Interest Code.

The California African American Museum proposes to adopt its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. A written explanation of why each position was selected and the reasons for the disclosure categories is available.

The California African American Museum is dedicated to preserving the diverse contributions of African Americans to the history and culture of the state and the nation. Copies of the proposed code are available and may be requested from the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so after the publication date of August 24, 2007, by contacting the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed code by submitting them in writing after the above publication date and no later than the end of business day on October 08, 2007, which is the deadline for public hearing. All requests should be directed to the contact person set forth below.

The California African American Museum has determined that the proposed code:

1. Impose no mandate on local agencies or school districts.

2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries should be directed to:

Charmaine Jefferson, Executive Director
600 State Drive, Exposition Park
Los Angeles, CA 90037
cjefferson@caamuseum.org

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCY: Department of Conservation
MULTI-COUNTY: Lassen Community College
District

A written comment period has been established commencing on **August 24, 2007**, and closing on **October 8, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section

87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **October 8, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620,

Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3589, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Japanese Beetle Eradication Area as an emergency action that was effective on July 6, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 2, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 8, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any

portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3589, subsection (a), was amended and established Orange County as an eradication area for Japanese beetle, *Popillia japonica*. The effect of this action was to establish authority for the State to conduct eradication activities in Orange County. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3589 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3589 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses

within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3589, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3589, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed

actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 10. DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

RHREG-2007-00025
DATE: August 17, 2007

SUBJECT OF HEARING

A hearing will be held regarding proposed regulations relating to the requirement that insurers and surplus line brokers participate in the electronic fund transfer program if their premium taxes exceed twenty thousand dollars. If they fail to participate in the program or if their payment is untimely, they will be assessed a ten percent penalty plus interest on the amount due (20 percent penalty if they fail to do both) unless the penalty is waived as set forth under these regulations.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes to adopt the subject regulations under the authority of Insurance Code Sections 1775.4(e), 1775.5(b), 1775.8, 12976.5 and California Revenue and Taxation Code Section 12602, 12631 and 12636. These regulations will imple-

ment, interpret and make specific provisions of Insurance Code Section 45 and Revenue and Taxation Code Section 12258.

HEARING DATE AND LOCATION

Notice is hereby given that public hearings will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

Date and time: October 24, 2007
10:00 am

Location: 45 Fremont Street
22nd Floor Hearing Room
San Francisco, CA 94105

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the scheduled public hearings. Written comments not presented should be addressed to the following contact person:

Risa Salat-Kolm, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4127

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearings, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than 5:00 on October 24, 2007. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: salat-kolmr@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Chapter 5, Subchapter 4.5, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing, listed above. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Insurance Code Sections 1775.8 and 12976.5(a), insurers and surplus line brokers (“taxpayers”) whose annual taxes exceed twenty thousand dollars are required to make payment by electronic fund transfer. The Commissioner is proposing regulations that set forth this requirement and the penalties that will be assessed if the taxpayer fails to participate in the program or fails to make a timely payment.

The major effects of the regulations are as follows:

Section 2330.1 Preamble — Adopt

The section specifies that insurers and surplus line brokers (“taxpayers”) are required to participate in the electronic fund transfer (“EFT”) program if their annual taxes exceed twenty thousand dollars. If they fail to participate in the program or if their payment is untimely, they will be assessed a ten percent penalty plus interest on the amount due unless the penalty is waived for reasons set forth in other regulations. If the taxpayer both fails to participate in the program and make a time-

ly payment, he will be assessed a twenty percent penalty plus interest unless the penalty is waived for reasons set forth in other regulations.

Section 2330.2 Definitions — Adopt

The section defines “fedwire payment” and “Department.”

Section 2330.3 — Waiver of Penalty for Failure to Pay Taxes by EFT — Adopt

The section sets forth the circumstances under which the penalty for failure to pay taxes by EFT may be waived.

Section 2330.4 — Filing for Relief — Adopt

The section specifies that the taxpayer seeking to be relieved of the penalty for failure to pay taxes by EFT shall file a statement with the Department of Insurance and/or California Board of Equalization setting forth the facts under which the claim for relief is based.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that there will be no cost or savings, discretionary or nondiscretionary, to any local agency, state agency or school district from the proposed regulations, and that the proposed regulation will not affect federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the proposed amendments may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurers and surplus line brokers. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments may affect small businesses to the extent

surplus line brokers qualify as small businesses. These individuals and entities will be required to comply with the regulations.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed changes to the regulations. Upon written or e-mailed request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon written or e-mailed request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying by prior appointment at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the search field appears, enter 'REG-2007-00025' (the Department's regulations file number for these regulations). Alternatively, search for the California Insurance Code number of a

code section that the regulations implement (for instance, “1775.4(e)”), or search by key word (‘electronic fund transfer’ for example, or ‘taxpayers’). Then, click on the “Submit” button to display links to the various filing documents.

To browse, click on the “Browse All Regulations” button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the “Direct Repair Programs and Labor Rate Surveys” link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 10. MANAGED RISK MEDICAL INSURANCE BOARD

NOTICE OF PROPOSED REGULATIONS

R-2-06

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) proposes to permanently adopt changes to Chapters 5.6 and 5.8 of Title 10 of the California Code of Regulations.

AB1807, (Chapter 74, Statutes of 2006), the 2006 Budget Health Trailer Bill, identified a number of changes to the Access for Infants and Mothers (AIM) program and Healthy Family Program (HFP). These and other related changes were approved by the OAL as emergency regulations and are described in the Informative Digest.

The changes in AB 1807 to the AIM program primarily focus on new eligibility requirements for infants born to AIM mothers on or after July 1, 2007. In order to better conform to federal policy, infants born to AIM mothers on or after July 1, 2007, will no longer be automatically eligible for HFP if they have other coverage through employer sponsored insurance or Medi-Cal.

AB1807 also removed previous requirements that an applicant to the HFP must include the 1st full month’s premium payment with their initial application in order to enroll their eligible child in HFP. OAL approved the removal of a related barrier to enrollment, as emergency regulations. This barrier is the requirement that families

must select a health, dental and vision plan at the time of application in order to be eligible.

Emergency regulations were approved that give MRMIB the authority to implement enhancements to the Certified Application Assistance (CAA) process. The 2006 Budget Act added funds to increase the incentives that are paid to the Enrollment Entities and CAA’s who provide assistance to a family to complete HFP/MC applications or HFP AER forms.

In addition this Notice includes other changes related to federal compliance in AIM which were not included as approved emergency regulations.

The details of the emergency regulations and proposed changes are found in the Informative Digest/Policy Statement Overview.

MRMIB has scheduled a public hearing in Sacramento, California, for October 11, 2007 from 1:30 p.m. to 2:30 p.m. at the following address:

1000 G Street, Suite 450
Front Conference Room
Sacramento, CA 95814

It is requested, but not required, that any person wishing to present testimony should register at 1:30 p.m. on October 11, 2007. The hearing will be adjourned immediately following the completion of oral and written testimony presentations. This public hearing is for the purpose of considering regulations. The MRMIB upon its own motion, or at the instance of any interested persons, may adopt the proposals substantially as presented.

The MRMIB may modify the regulations after public hearing and adopt the modified regulations if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be mailed to all persons who testify or submit written comments at the public hearing, submit written comments during the public comment period, and all persons who request notification, at least 15 days prior to the date on which the MRMIB adopts the regulations. A request for a copy of any regulations as modified should be addressed to JoAnne French at the address below.

Any person interested may submit written comments relating to the proposals in writing to:

JoAnne French
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
Phone: 916-327-7978
Fax: 916-327-6580
E-mail: jfrench@mrmib.ca.gov

The back up contact person is:

Randi Turner
Managed Risk Medical Insurance Board
1000 G Street, Suite 450
Sacramento, CA 95814
Phone: (916) 327-8243
Fax: (916) 327-6580
E-mail: rturner@mrmib.ca.gov

Written comments must be received by 5:00 p.m. on October 11, 2007. Written comments received after October 11, 2007 may not be assured of consideration unless otherwise expressly stated by the hearing officer. It is requested, but not required, that persons making oral presentations at the hearing provide a written version of their comments at the conclusion of their remarks.

The public hearing facility is accessible to persons with mobility impairments. If you are in need of a language interpreter, including sign language, at the hearing, or have other special needs, please notify MRMIB at least two weeks prior to the hearing.

An Informative Digest/Policy Statement Overview for the proposed regulation changes, including fiscal impact statements and other required determinations are included below. These regulations are written in plain English. An Initial Statement of Reasons for the proposed action has been prepared. These, and copies of the proposed regulations, may be requested by telephone, or by writing to the above address. In addition, the Board has available a rulemaking file which contains all the information upon which the proposed regulations are based. This file is available for public perusal at the MRMIB office (see address above), during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The pertinent documents (proposed regulations and Initial Statement of Reasons) pertaining to this rulemaking can be obtained on MRMIB's website at www.mrmib.ca.gov. The final Statement of Reasons can be obtained when available, after the public hearing and final adoption, by contacting JoAnne French at (916) 327-7978 or jfrench@mrmib.ca.gov.

Please address questions and requests for available information concerning the proposed regulations to JoAnne French at (916) 327-7978 at the address listed above. She can answer questions regarding the substance of the proposed regulations or can direct the question to the appropriate person within the Board. Gina Van Nes is designated as the small business advocate contact person for the Board.

AUTHORITY AND REFERENCES

AIM Authority: Sections 12696.05, Insurance Code.

AIM Reference: Sections 12693.765, 12695, 12695.06, 12695.08, 12695.18, 12695.20, 12695.22, 12695.24, 12696, 12696.05, and 12698 Insurance Codes, and 42 CFR Section 457.475.

HFP Authority: Sections 12693.21, 12693.75, and 12693.755 Insurance Code, and Section 14005.41 Welfare and Institutions Code.

HFP Reference: Sections 12693.02, 12693.21, 12693.32, 12693.325, 12693.43, 12693.46, 12693.70, 12693.71, 12693.73, 12693.74, 12693.75, 12693.755, and 12693.765 Insurance Codes.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Laws and Regulations

Insurance Code Sections 12695, et. seq. established the Access for Infants and Mothers (AIM) Program in 1991, under the direction of the Managed Risk Medical Insurance Board (MRMIB).

Title 10, California Code of Regulations, Chapter 5.6 implements the Access for Infants and Mothers (AIM) Program.

Insurance Code Section 12693, et seq., established the Healthy Families Program (HFP) in 1997, under the direction of the Managed Risk Medical Insurance Board (MRMIB).

Title 10, California Code of Regulations, Chapter 5.8 implements the Healthy Families Program.

Policy Statement Overview

In August 1997, the Federal Government established a new program, the State Children's Health Insurance Program (SCHIP), by adding Title XXI to the Social Security Act. The program provides health care services to uninsured, low-income children. The program is targeted to serve children whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California. The Legislature passed and the Governor signed AB 1126, resulting in Chapter 623, Statutes of 1997 (AB 1126). Under that law, California took the option of both expanding its Medi-Cal Program and establishing a new stand alone children's health insurance program, the Healthy Families Program (HFP). The Department of Health Care Services (DHCS) administers the Medi-Cal expansion through its own Regulations. The Managed Risk Medical Insurance Board (MRMIB) administers the HFP. The basic structure of the HFP is set out in Regulations approved by the Office of Administrative Law, which established Chapter 5.8 of Title 10 of the California Code of Regulations.

Insurance Code Sections 12695, et seq. established the Access for Infants and Mothers (AIM) Program in 1991, to provide health insurance to low and moderate income pregnant women and the infants born to the cov-

ered women. The AIM program, which is managed by the MRMIB, is covered in regulations in Chapter 5.6 of Title 10 of the California Code of Regulations. AIM is funded by:

1. Cigarette and Tobacco Products Surtax Fund (Prop. 99);
2. Federal Funds from Title XXI of the Social Security Act (SCHIP); and
3. Subscriber contributions.

The Federal Government has funded the costs of some AIM infants since 1998 and, in 2004; AIM infants were automatically enrolled into the HFP and became eligible for SCHIP funding. The Federal Government recently approved SCHIP funding to cover most of the costs of women in AIM.

The most recent health programs trailer bill, Assembly Bill 1807 (Chapter 74, Statutes of 2006) (AB 1807), identified a number of changes to both the HFP and AIM programs, which are being covered through this regulation package. AB 1807 gave the Board authority to file regulations resulting from this trailer bill as emergency regulations. Corresponding changes needed to complement the access changes added by AB 1807 are also included. These were also approved as emergency regulations. Other changes included in this Notice were not authorized or approved as emergency regulations and are being submitted for formal public review through this Notice. The changes to the AIM Regulations are summarized as follows:

AIM is a means tested program, covering pregnant women with family incomes above 200%, but not more than 300%, of the federal poverty level (FPL). Women with family incomes below 200% FPL qualify for no-cost Medi-Cal services for their pregnancy, funded by State and Federal dollars. Those infants born to subscribers enrolled in the AIM program on or after July 1, 2004 are automatically eligible for the Healthy Families Program. In order for an infant to be enrolled in the HFP, the AIM subscriber must register the infant into the HFP and pay for the first monthly child contribution amount.

Assembly Bill 1807 identifies new eligibility requirements for infants born to AIM mothers, commencing on or after July 1, 2007. Infants born to AIM subscribers on or after July 1, 2007 are no longer automatically eligible for the HFP. In order for an infant to qualify for the HFP, the child cannot be enrolled in employer sponsored insurance (ESI) and cannot be enrolled in the no-cost full scope Medi-Cal program. Prior to July 1, 2007, any infant born to a woman (whose enrollment in the AIM Program occurs after June 30, 2004) was automatically enrolled into the HFP despite whether or not the infant has ESI or no-cost Medi-Cal coverage. Not only did this create a possible situation in which a child may have dual coverage, but it also promoted inconsis-

tency in the enrollment requirements between AIM-linked babies and other children who are enrolled in the HFP.

The implementation of AB 1807 requires changes to the current AIM Regulations in order to assure conformity with the statute change contained in Insurance Code Section 12693.70. This results in changes to Section 2699.205 of the AIM Regulations, on registration of infants.

In addition to changes resulting from AB 1807, the MRMIB is proposing through this Notice, changes to conform to a federal requirement for the mother's coverage. This is necessary because the AIM program now draws Title XXI funding to cover most of the costs of providing services to AIM mothers. These changes were not included in the approved Emergency Filing and are explained below.

Under Federal Law (42 USC Section 1397ee(c)(5)), federal funding may not be used to pay for abortion services, except those that result from incest or rape or services necessary to save the life of the mother. 42 CFR, Part 457, Section 457.475, requires states, in which managed care entities provide abortions at state only expense (as does California), provide the services under a separate contract using non-federal funds. This results in adding a definition, "state supported services", to mean abortion services, in Section 2699.205, on definitions and adopting Section 2699.402, in Article 4, to add a standard that the state supported services shall be paid for by state dollars only.

The changes to the HFP Regulations are summarized below:

Assembly Bill 1807 removes the previous requirement that applicants to the HFP must include the 1st full month's premium payment with their initial application in order to enroll their eligible children into the HFP. This requirement previously caused an unnecessary delay in enrollment and denial of eligible children.

This results in changes to Section 2699.6600 on the HFP Application and Section 2699.6813, on family contribution payments.

In conjunction with the change to the premium payment requirement, it is essential that the MRMIB also remove the requirement to include health, dental and/or vision plan selections as a part of the application and enrollment process, which has acted as a similar barrier to enrollment. The 2006/2007 Budget Concept Proposal identified a streamlining process to enroll qualifying children more expeditiously without further delays. As a result of the streamlining process, applications will not be denied based solely on the applicant not providing his/her health, dental and/or vision plan selections. The program will still follow up with the family on plan selection. If the family does not respond, the program

will assign the applicant children to the health plan in the county of residence with a Community Provider Plan designation and to an available dental and vision plan on an alternate assignment basis. Families who are not satisfied with the plans selected by the program may change plans for a period of time under existing regulations or during annual open enrollment.

This results in changes to Section 2699.6600 on the HFP Application and Section 2699.6607, on determination of eligibility.

Assembly Bill 1807 includes new eligibility requirements that, as of July 1, 2007, AIM-linked infants who are enrolling into the HFP cannot be covered by employer sponsored insurance (ESI) or enrolled in the full-scope no-cost Medi-Cal program. Prior to that date, any infant born to a woman (whose enrollment in the AIM Program occurs after June 30, 2004) was automatically enrolled into the HFP whether or not the infant has ESI or no-cost Medi-Cal coverage. Not only did this create a possible situation in which a child may have dual coverage, but it also promoted inconsistency in the eligibility requirements between AIM-linked infants and other children who are enrolled in the HFP. Changes corresponding to the changes made to AIM regulations must also be made to the HFP regulations.

This results in changes to Section 2699.6608, on enrollment of AIM infants and 2699.6613, on starting date of coverage for subscribers.

The HFP uses and pays qualified organizations called Enrollment Entities (EEs) to assist families in applying for the HFP and the MediCal for Families Program (MCFP). The 2006/2007 Budget Act added funds for the Board to increase payments to EEs when their Certified Application Assistants (CAAs) help families to complete the initial application for the HFP and MCFP, when the application results in the child(ren) successfully enrolling into either of the programs. The Budget Act also added funds to increase the payments to EEs when a CAA assists families to complete the HFP Annual Eligibility Review (AER) forms and the children successfully re-qualify for the HFP for an additional year. Assembly Bill 1807 gave the Board emergency regulation authority to implement these enhancements through regulations.

Currently, EEs are reimbursed \$50 when their CAA staff provides assistance to families to complete the initial HFP or MCFP applications when a child is enrolled in either the HFP or MCFP. If children in the same household are enrolled in both the HFP and MCFP from the same application, the EE will receive \$50 from each program (a maximum of \$100 per application). The initial application may be submitted either by paper or electronically via the internet.

In addition, the child enrolled in HFP must submit an AER form in order to re-qualify for another year of

health, dental and vision coverage. If a CAA provides assistance during the AER, the EE is reimbursed \$25 for each AER form that results in a child re-qualifying for the HFP.

The Board is using the increased funding for the following changes to the EE reimbursement amounts:

- On and after July 1, 2006, any CAA who provides assistance completing the initial HFP and MCFP application which is submitted electronically, the EE will receive an additional \$10 incentive (a total of \$60) for a successful enrollment in the HFP or MCFP.
- On and after July 1, 2006, any CAA who provides assistance to a family to complete the HFP AER form, the EE will receive an additional \$25 incentive (a total of \$50) for a successful re-qualification in the HFP program.

This results in changes to Section 2699.6629, on payment for application assistance.

In addition, the Board is also using this opportunity to update the application reference information in Section 2699.6600 and to correct a cross reference error to Subsection (c) in Section 2699.6625 on annual eligibility review. These changes were not included in the approved emergency filing.

Implementing AB 1807 requires changes to the current HFP Regulations to reflect the authority of MRMIB, pursuant to Section 12696.05 of the Insurance Code, which gives the MRMIB the authority to determine eligibility criteria for the program. The additional funds for application assistance result in changes to the current HFP Regulations to reflect the increase in payment to Enrollment Entities, pursuant to Section 12693.32 of the Insurance Code, which gives the MRMIB authority to reimburse organizations that assist families in enrolling in the HFP or MCFP programs during the initial application process or during the HFP AER process. AB 1807 granted MRMIB emergency authority to implement these regulation changes.

These regulations were reviewed in public at two Board meetings on October 25 and November 15, 2006 and approved by the Board at the November 15 meeting. The regulations, with the exception of adding the definition of state supported services for AIM, updates of the issue dates for the HFP printed and electronic application in Section 2699.6600 and the technical correction to Section 2699.6325, were approved by the Office of Administrative Law as emergency regulations on July 30, 2007.

Documents Incorporated by Reference

No documents were incorporated by reference.

DETERMINATIONS

In accordance with Government Code Section 11346.5(A)(7), the Managed Risk Medical Insurance Board must determine that no reasonable alternative considered by the Board, or that has been otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Managed Risk Medical Insurance Board has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Proposed Action Differs Substantially From an Existing Comparable Federal Regulation or Statute:

None.

Mandates on Local Agencies or School Districts:

None.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code:

None.

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4:

None.

Nondiscretionary Costs or Savings Imposed on Local Agencies:

None.

Significant effect on housing costs:

None.

Cost or Savings to Any State Agency:

The provision of AB 1807, Chapter 74, Statutes of 2006, identified changes to both the Healthy Families Program (HFP) and Access for Infants and Mothers Program (AIM). Following are the changes to the AIM and HFP regulations as well as the fiscal effect for each of these programs on state government.

Access for Infants and Mothers Program:

AB 1807 identifies new eligibility requirements for infants born to AIM mothers commencing on or after July 1, 2007. Infants born to AIM mothers on or after July 1, 2007 will no longer be automatically eligible for HFP. In order for an infant to qualify for HFP, the child cannot be enrolled in an employer sponsored insurance (ESI) and cannot be enrolled in the no-cost full scope Medi-Cal program. These new eligibility requirements

for infants born to AIM mothers have also been made in the HFP regulations.

It is anticipated that this statute change would result in annual savings to the state of up to \$951,000 (\$333,000 General Fund). The savings would come from not enrolling infants who are already enrolled in no cost Medi-Cal or ESI. Based on current data from the statewide Medi-Cal Eligibility Data System (MEDS), an average of 4.6% of the AIM-Linked infants are also receiving no cost Medi-Cal. Applying this percentage to the 2006-07 enrollments for AIM mothers results in annualized savings of approximately \$475,500 (\$166,425 General Fund). The percentage of infants who are enrolled in ESI is unknown at this time, but it is likely to be at or above the percentage of infants in no-cost Medi-Cal; if this is the case, the statute change could yield an additional \$475,500 (\$166,425 General Fund) in savings.

These savings would be offset by the one-time costs of system changes and ongoing cost of reduced disenrollment for non-payment of premiums. The 2006 HFP November Estimate included \$300,000 in total funds (\$105,000 General Fund) in one-time cost for system changes in 2006-07. The cost of reduced disenrollments is estimated at \$44,000 (\$15,000 General Fund) annually beginning in 2007-08. Any savings resulting from this change have been accounted for in the annual budget estimate for the Healthy Families Program.

Healthy Families Program:

AB 1807 removes previous requirements that an applicant to the HFP must include the 1st full month's premium payment with their initial application in order to enroll their eligible child in HFP. In addition with the change to the premium payment requirement, the requirement to include health, dental and/or vision plan selections as part of the application and enrolled process has been removed.

The 2007 HFP May Revision Estimate included total funding for the current year of \$10.2 million total funds (\$3.5 million General Fund) and for the budget year the total funding is \$34.7 million (\$12.7 million General Fund) to reflect anticipated new enrollment in HFP resulting from the changes at initial application. Since the applicants are no longer required to submit their 1st full month's premium payment with their initial application, the administrative vendor will bill for the 1st month's premium payment when they are successfully enrolled. Therefore this change does not result in a reduction in premiums to the Healthy Families Program.

AB 1807 gave the Board emergency regulation authority to implement enhancements to the Certified Application Assistance process. Currently the enrollment entities (EEs) are reimbursed \$50 when their CAA staff

provides assistance to families to complete the initial HFP or MC applications when a child is enrolled in either HFP or MC. Once the CAA has provided assistance to the applicant, the CAA can then submit the initial application either by paper or electronically via the internet. In addition, a child enrolled in HFP must submit an Annual Eligibility Redetermination (AER) form in order to requalify for another year of health, dental and vision coverage. If a CAA provides assistance during AER, the EE is reimbursed \$25 for each AER form that results in a child re-qualifying for the HFP.

The 2006 Budget Act added funds for the Board to increase payments to EEs when their CAAs help families successfully enroll in HFP/MC via the HFP/MC initial application submitted electronically and for assistance during AER that results in a child re-qualifying for HFP. The increased funding is being used for the following changes to the EE reimbursement amounts:

- On and after July 1, 2006, any CAA who provides assistance completing the initial HFP/MC application which is submitted electronically, the EE will receive an additional \$10 incentive (a total of \$60) for a successful enrollment in HFP or MC.
- On or after July 1, 2006, any CAA who provides assistance to a family to complete the HFP AER form, the EE will receive an additional \$25 incentive (a total of \$50) for a successful re-qualification in the HFP program.

The 2006/07 Budget included total funding of \$10.2 million (\$3.8 million General Fund) for the 2006/07 budget year and the 2007 May Revision Estimate included \$14.2 million in total funds (\$5.3 million General Fund) in the 2007/08 budget year to reflect the updated application assistance incentive estimate and the impact to HFP enrollment.

Cost or Savings in Federal Funding to the State:

Under the Title XXI State Children's Health Insurance Program (S-CHIP), the Federal government covers 65% of all eligible program cost. Each of the following changes to the Healthy Families Program will impact the federal funding for HFP:

Access for Infants and Mothers Program:

New Eligibility Requirements for infants born to AIM mothers on or after July 1, 2007 who will no longer be automatically eligible for HFP if the child is enrolled in employer sponsored coverage or no-cost full scope Medi-Cal program.

As indicated in the section "Fiscal Effect on State Government" the 2006 HFP November Estimate included \$300,000 in total funds (\$195,000 Federal Funds) in one-time costs for system changes in 2006-07. Any savings or costs resulting from not enrolling infants who are already eligible for no cost

Medi-Cal or ESI have been accounted for in the annual budget estimate for the Healthy Families Program.

Healthy Families Program:

AB 1807 removes the requirement that an applicant to HFP must include the 1st full month's premium payment with their initial application and the requirement to include health, dental and/or vision plan selections in order to enroll their eligible child in HFP.

As indicated in the section "Fiscal Effect on State Government" the 2006 HFP November Estimate included in the 2006/07 budget year \$9.5 million in total funds (\$6 million Federal Funds) and for the 2007/08 budget year \$34.6 million in total funds (\$22 million Federal Funds) to reflect anticipated new enrollment in HFP resulting from the changes at initial application. In addition, since the applicants are no longer required to submit their 1st full month's premium payment with their initial application, the administrative vendor will bill for the 1st month's premium payment when they are successfully enrolled. Therefore this change does not result in a reduction in premiums to the Healthy Families Program.

AB 1807 also gave the Board emergency regulation authority to implement enhancements to the Certified Application Assistance process.

As indicated in the section "Fiscal Effect on State Government" the 2006 HFP November Estimate included \$10.3 million in total funds (\$6.5 million in Federal Funds) in the 2006/07 budget year and \$14.8 million in total funds (\$9.3 million in Federal Funds) in the 2007/08 budget year to reflect the updated application assistance incentive estimate and the impact to HFP enrollment.

Business Impact Statement

The Board has assessed the impact of these regulatory changes on California businesses, including small businesses. There is no known significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The changes to the eligibility and enrollment criteria for AIM and HFP have no effect on businesses in California. The Board is increasing the fees to enrollment entities and certified application assistants as an incentive to use the electronic application and for helping families to complete the Annual Eligibility Review process. Some of these entities are small businesses, so there will be a positive economic impact. However the Board has assessed that the impact of these regulatory changes will not be significant enough to either create new jobs or businesses or eliminate existing jobs or businesses or affect the expansion of businesses currently doing business within California.

Cost Impact on Representative Private Persons or Businesses

The Board has considered the cost impact on representative private persons or businesses impacted by these regulations. The Board is not aware of any major cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Although a newborn infant in an AIM family with other forms of health insurance coverage for the newborn will no longer be automatically enrolled in Healthy Families, the infant will still have coverage through Employer Sponsored Insurance or Medi-Cal.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5, Penal Code (PC) Section 5058, and the rulemaking authority granted by PC Section 5058.3, in order to implement, interpret and make specific PC Sections 2601 and 5054, proposes to adopt and amend Sections 3190 and 3191 of the California Code of Regulations (CCR), Title 15 concerning inmate personal property.

PUBLIC HEARING

Date and Time: October 17, 2007 — 9:00 am to 11:00 am

Place: Corrections Standards Authority
Large Conference Room — West Entrance
660 Bercut Drive
Sacramento, CA 95814

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close, October 17, 2007 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR,

Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 341-7390**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**Ann Cunningham
Regulation and Policy Management Branch
Telephone (916) 341-7390**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Anthony Freese, Facility Captain
Division of Adult Operations
Telephone: (916) 322-1843**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: None
- Cost or savings to any state agency: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The

proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

In this regulatory action, the Secretary proposes to amend its regulatory provisions pertaining to inmate personal property which are set forth in CCR, Title 15, Sections 3190 and 3191 as follows:

- This action amends provisions governing inmate personal property based upon institution mission and security levels. It also incorporates by reference the Approved Personal Property

Schedule (APPS) Matrix with revision date of February 1, 2007. The specific items of personal property have been established by a consensus of individual facilities within each of the five mission-based regions of the Division of Adult Institutions. The timely update of the five mission-based regional property lists is critical to maintaining the safety and security of facilities throughout the State. Frequent updates are necessary in order to accurately reflect the safety and security needs of the facilities of the Department in a timely manner. Updates are limited to twice yearly as a result of staff workload issues. Any changes to the APPS shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act. Local exceptions to the individual mission-based property lists shall also continue to be permitted due in part to the wide range in variances of facility construction and needs of specific local inmate populations.

- These regulations allow for a standardized personal property schedule. Based upon the Department's reorganized management structure, the Department will now have the ability to identify inmate personal property needs based upon institution mission, which is directly related to the institution's security level.
- The Department weighed institutional concerns against the concerns of inmates in order to determine reasonable personal property standards. Reasons requiring the personal property standards include, but are not limited to: (1) increases staff's ability to detect contraband, drugs, and weapons; (2) reduces the ability for inmates to barter or trade; (3) reduces inmate personal property claims; (4) provides property distinctions for the five mission-based programs; (5) reduces the ability of inmates to intimidate other inmates into relinquishing personal property; and (6) in the interest of security and safety.
- The specific items of personal property have been established by a consensus of individual facilities within each of the five mission-based regions of the Division of Adult Institutions. The APPS Matrix, which is incorporated by reference, and will consist of the following five different mission-based programs: (1) APPS — Reception Center (facilities within this mission provide short term housing to male inmates for evaluation of long term housing and programming needs); (2) APPS — Levels II and III, Male Conservation Camps and Community Correctional Facilities (CCFs) (facilities within this mission provide long

term housing and services to minimum, low and lower medium custody, general population male inmates and provide for the training and placement of male inmates in the conservation camp program); (3) APPS — Levels III and IV (facilities within this mission provide long term housing and services to higher medium and maximum custody general population male inmates); (4) APPS — High Security and Transitional Housing, (facilities within this mission provide long term housing and services to maximum custody, high security male inmates that have proven to be unsuitable for placement in less restrictive facilities); and (5) APPS — Female Offenders Programs, (facilities within this mission serve as Reception Centers, providing short term housing to female inmates for initial assessment, and provide long term housing and services to all levels of custody and security for female inmates). It is the separation of the current single matrix into these five separate matrices that allows the Department to permit a wider array of personal property items for inmates as an incentive to program in a positive manner and to address the security needs of the higher security levels.

- These regulations allow for an inmate to possess personal clothing in their quarters/living area, subject to section 3190(a), unless otherwise prohibited by these regulations. These regulations also allow for inmate special purchases from a locally-approved vendor as described in 3190(i), with the exception of books and subscriptions to periodicals which are subject to 3006; and purchases by inmate correspondents of appliances for qualifying inmates, including health care and entertainment appliances and/or musical instruments from a locally-approved vendor, pursuant to section 3044. Inmates assigned to Privilege Groups A or B may now possess up to three approved appliances (a musical instrument may be substituted as one of the three appliances), not to exceed the six cubic feet maximum limitation.
- These regulations address property retention for inmates pending the outcome of an Initial Classification Committee review. Additionally, they address the reissue of the property as determined by departmental regulations.
- The amendments to Section 3191(c) revise provisions pertaining to the disposal of unauthorized personal property, particularly with regard to the disposal of specified contraband.

- The regulations include other miscellaneous amendments, all of which relate to inmate possession of inmate personal property.

TITLE 16. CALIFORNIA ARCHITECTS BOARD

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, California 95834, on **October 11, 2007 at 10:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **October 10, 2007** or must be received by the Board at the hearing.

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 5630 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 5681 of the BPC, the Board is considering changes to Division 26 of Title 16 of the California Code of Regulations (CCR), Section 2649 as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 5630 authorizes the Board to adopt, amend, or repeal rules and regulations that govern the examination of applicants for licenses to practice landscape architecture in California. BPC section 5651 requires that the Board administer a written examination that ascertains the professional qualifications of all applicants for licenses to practice

landscape architecture. BPC section 5681 authorizes the Board to charge fees for sections of the licensing examination administered by the Board that do not exceed the actual cost of purchasing and administering those sections as well as charge a fee for an original license and renewal not to exceed \$400. CCR Section 2649 makes specific the reference and authority of the BPC and sets the fee for sections of the licensing examination administered by the Board and for an original and renewal licenses.

In 2004 the Joint Legislative Sunset Review Committee (JLSRC) recommended the Landscape Architects Technical Committee (LATC) should make effort to assure applicants for licensure pay the full costs to the Board for processing applications and providing examinations rather than subsidizing these costs with licensing fees. In February 2007 the national examination vendor notified the LATC of an increase to the examination administered by the Board through September 30, 2009. Also, the fees for an original and renewal license have not increased since 1991 while inflation has grown at an average of 2.7% per year in that time. The Department of Consumer Affairs has recently assessed the LATC fund and it will fall below acceptable reserve levels by the 2010/2011 Fiscal Year and the fund is expected to incur a deficit in the fiscal years thereafter. The LATC has also recently redeveloped the format of the California Supplemental Examination (CSE) to a multiple-choice examination, it had previously been a take home examination, and will require annual evaluation to maintain the validity, security and integrity of the CSE.

This proposal would modify CCR Section 2649 with the following changes: 1) modify examination fees for Sections C and E of the licensing examination to reflect the increased cost of purchasing the examination from the national examination vendor, effective on July 1, 2008, 2) increase the fee for an original license, 3) increase the fee for a biennial renewal, and 4) increase CSE fee to enable recovery of costs directly associated with the administration and annual development of the CSE, effective on July 1, 2008.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would

have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board is an increase in the examination fees paid by candidates for the licensing examination, an increase in original license and biennial license renewal fees paid by licensees, and an increase in the CSE fee.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses. This proposal would modify CCR Section 2649 with the following changes: 1) modify examination fees for Sections C and E of the licensing examination to reflect the increased cost of purchasing the examination from the national examination vendor, effective on July 1, 2008, 2) increase the fee for an original license, 3) increase the fee for a biennial renewal, and 4) increase the CSE fee to enable recovery of costs directly associated with the administration and annual development of the CSE, effective on July 1, 2008.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has made available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board, Landscape Architects Technical Committee, at 2420 Del Paso Road, Suite 105, Sacramento, California, 95834, or by telephoning the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking actions may be addressed to:

Name: Ethan Mathes
Address: Landscape Architects Technical
Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7230
Fax No.: (916) 575-7285
E-mail Address: Ethan_Mathes@dca.ca.gov

The backup contact person is:

Name: Mary Ann Aguayo
Address: Landscape Architects Technical
Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7230
Fax No.: (916) 575-7285
E-mail Address: Mary_Ann_Aguayo@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.larc.ca.gov.

TITLE 19. GOVERNOR'S OFFICE OF EMERGENCY SERVICES

DIVISION 2. OFFICE OF EMERGENCY SERVICES

CHAPTER 4. HAZARDOUS MATERIAL RELEASE REPORTING, INVENTORY AND RESPONSE PLANS

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR AREA PLANS UNDER THE PESTICIDE DRIFT EXPOSURE ACT.

NOTICE IS HEREBY GIVEN that the Governor's Office of Emergency Services proposes to amend its regulations, establishing the requirement that pesticide drift exposure protocols be incorporated into area plans by administering agencies (usually Certified Unified Program Agencies or CUPAs). The regulations to be amended are entitled "Minimum Standards for Area Plans" and are found in California Code of Regulations, Title 19, Division 2, Chapter 4, Article 3, commencing with Section 2720. Additionally, a definition of "pesticide drift exposure incident" will be added to Article 1, as new Section 2660. The amendments are indicated by strikeout and underline in the proposed text of regulations, and are available online or on request from the agency official designated in this notice. Beginning on August 24, 2007, any interested person, or his or her authorized representative, may present statements, arguments or comments by mail or fax to the contact person listed below, or by e-mail to 391Comments@oes.ca.gov. These comments will be received until 5 p.m. on October 12, 2007. The Office will hold a public hearing starting at 2 p.m. Tuesday, October 9, 2007 at the Agricultural Auditorium, Tulare County Agricultural Building, 4437 S. Laspina St., Tulare, CA 93274. At the hearing, any person may present statements or arguments, orally or in writing about the proposed action described in the informative digest. It is requested that persons making oral comments at the hearing submit a written copy of their testimony.

AUTHORITY AND REFERENCE

These regulations were initially authorized by Health and Safety Code Section 25503. The regulations establish minimum standards for area plans. The proposed amendments are authorized by Food and Agricultural Code Section 12997.7, a new statute created in 2004 by

Senate Bill 391. This latter statute requires incorporation of pesticide drift exposure protocols into area plans upon the next scheduled revision of the area plan. The proposed amendments clarify how the new protocols will be integrated into the area plan.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The pesticide drift exposure bill (SB 391) was introduced in response to a number of pesticide drift exposure incidents in California that affected residential communities.

These incidents resulted in illness and hospitalizations, at great expense to the affected population, local governments, and the state government. Pesticides are unique toxic substances, in that their proper usage requires their release into the environment. Existing statute (Food and Agricultural Code, Section 12972), requires pesticide handlers to apply the product in such a manner as to prevent drift of the pesticide to non-target areas. However, pesticide drift into unintended areas is not uncommon, due to unintentional overspray, unexpected winds, accidental release, or negligence.

Six protocols were mandated for inclusion into the area plan, for the purpose of aiding first responders to pesticide drift exposure incidents to better identify the chemical of concern and to better respond to the health and safety needs of the affected population. The protocols are to be developed by the California Environmental Protection Agency, in consultation with the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, the Office of Emergency Services, and representatives of the California County Agricultural Commissioners. A series of public meetings have been held.

The six protocols to be incorporated into the area plan are: 1) provide access to pesticide-specific information to assist emergency medical services personnel; 2) define agency responsibilities; 3) develop emergency shelter and evacuation procedures; 4) provide information and services in all languages known to be spoken in the affected area; 5) ensure access to health care; and 6) provide notification to medical providers of eligibility for reimbursement.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies: Requiring local agencies to amend the area plan for response to pesticide drift exposure incidents is an imposition of a state mandate. Section 25513 of Article 1 of Chapter 6.95 of Division 20 of the Health and Safety Code allows local agencies to collect fees to offset costs incurred while ad-

ministering Article 1, which includes establishing and maintaining area plans.

Cost to Local Agencies Reimbursable Under Government Code, Part 7, Division 4: If the Commission on State Mandates determines that this action contains other costs mandated by the state, reimbursement to local agencies for these costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000) reimbursement shall be made from the State Mandates Claims Fund.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: The initial determination is that there are none.

Cost or Savings to Any State Agency: The initial determination is that there are none.

Cost or Savings In Federal Funding To The State: None.

Significant Effects on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business Including the Ability of California Businesses to Compete With Businesses in Other States: The initial determination is that there is none.

Cost Impacts on a Representative Private Person or Business: The Office of Emergency Services is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business Determination: The proposed action requires additions to planning documents prepared by local governments only. Therefore, the initial determination is that the proposed action has no effect on small business.

Assessment Regarding the Creation or Elimination of Jobs in California: The initial determination is that the adoption of these amended regulations will not: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses in California; or 3) affect the expansion of businesses currently doing business within California.

CONSIDERATION OF ALTERNATIVES

The proposed amended regulations are a direct mandate of the Legislature, as signed by the governor, and chaptered in the Food and Agricultural Code. However, in accordance with Section 11346.5 of the Government Code, the Office must determine that no alternative it considered would be more effective in carrying out the mandate of the Legislature than the proposed amendments. The Office invites interested persons to present statements or arguments with respect to alternatives to the proposed action during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDED REGULATIONS

The Office of Emergency Services has prepared an Initial Statement of Reasons for the proposed amendments. Copies of the exact language of the proposed amended regulations and the Statement of Reasons, and other information, if applicable, may be obtained from the Office upon request from the contact person listed below, or may be accessed on the OES Website. The entire rulemaking file is available for inspection and copying at the Office of Emergency Services. Requests for inspection of the entire rulemaking file should be directed to the contact person listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Office of Emergency Services may adopt the proposed regulations if they remain substantially the same as described in this notice. The Office of Emergency Services may make changes in the proposed regulations before adopting them. The text of any modified regulations will be made available to the public with the changes clearly marked at least fifteen (15) days before the Office adopts the regulations as revised. The modified text can be requested from the contact person listed below, or may be accessed on the OES Website. The Office will accept comments on the modified regulations for 15 days after the date on which the text is made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

The Office will prepare a Final Statement of Reasons when all comments have been received and considered, prior to closing the rulemaking record. The statement may be requested from the contact person listed below, or may be accessed on the OES Website.

CONTACT PERSON FOR FURTHER INFORMATION

Anyone wishing further information about the proposed amended regulations, the Initial Statement of Reasons, or the full text of the regulation language proposed to be adopted, may contact Jack Harrah in the Hazardous Materials Unit, Office of Emergency Services, 3650 Schriever Ave., Mather, CA 95655; by fax, Attention: Jack Harrah at (916) 845-8734; or by telephone at (916) 845-8759.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the proposed amendments in underline and strikeout format, and the Final Statement of Reasons can be accessed through the Office of Emergency Service's Hazardous Materials Web page at: <http://www.oes.ca.gov/>.

**TITLE 20. CALIFORNIA ENERGY
COMMISSION**

**NOTICE OF PROPOSED ACTION
(NOPA)**

**PROPOSED AMENDMENTS TO APPLIANCE
EFFICIENCY REGULATIONS**

**California Code of Regulations, Title 20,
Sections 1601, 1602, 1605.3, and 1606**

**CALIFORNIA ENERGY COMMISSION
DOCKET NUMBER 07-AAER-2
AUGUST 24, 2007**

INTRODUCTION

The California Energy Commission ("Energy Commission") proposes to amend its appliance efficiency regulations. These amendments will repeal the appliance efficiency standards for Digital Television Adapters (DTAs) in title 20 of the California Code of Regulations.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed amendments. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at: <http://www.energy.ca.gov/appliances/index.html>.

PUBLIC HEARINGS

The Energy Commission's Energy Efficiency Committee will hold a public hearing on the following date to receive public comment on the Express Terms:

SEPTEMBER 24, 2007

10:00 a.m.

CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair Accessible)

Audio for the September 24, 2007 Energy Efficiency Committee meeting will be broadcast over the Internet. For details, please go to:

www.energy.ca.gov/webcast.

At this hearing any person may present statements or arguments relevant to the proposed action. Interested persons may also submit written comments; if possible, please provide written comments to be considered at the Committee hearing by September 21, 2007. The Energy Commission appreciates receiving written comments at the earliest possible date.

The hearing before the full Energy Commission for adoption of the 45-Day Language Express Terms will be held on the following date unless the Energy Commission decides to modify the Express Terms through the issuance of 15-day language.

PROPOSED ADOPTION DATE

The full Energy Commission will consider adopting the proposed amendments at a public hearing:

OCTOBER 10, 2007

10 a.m.

CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

Audio for the October 10, 2007 Adoption Hearing will be broadcast over the internet. For details, please go to:

www.energy.ca.gov/webcast/.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

At the hearings any person may present written or oral comments on the proposed amendments.

**PUBLIC COMMENT PERIOD/WRITTEN
COMMENTS**

The public comment period for this NOPA will be from August 24, 2007 through October 10, 2007. Any

interested person may submit written comments on the proposed amendments. Regarding the Energy Efficiency Committee, and Adoption Hearings, the Energy Commission appreciates receiving written comments at the earliest possible date: for the September 24, 2007 hearing, please provide written comments by September 21, 2007; for the October 10, 2007 Adoption Hearing, please provide written comments by October 9, 2007. However, written comments will still be accepted at the hearings. In addition, written comments will be considered if they are received by 10:00 a.m. on October 10, 2007. Written comments shall be emailed to Docket@energy.state.ca.us or mailed or delivered to the following address (emailing is preferred):

California Energy Commission
Docket No. 07-AAER-2
Docket Unit
1516 Ninth Street, Mail Station 4
Sacramento, California 95814-5504

All written comments must indicate "Docket No. 07-AAER-2." When comments are emailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt the amendments under the authority of Public Resources Code sections 25213, 25218(e), and 25402(a)-(c). The proposed amendments implement, interpret, and make specific Public Resources Code sections 25402(a)-(c).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law [Public Resources Code § 25402(c)] requires the California Energy Commission ("Energy Commission") to adopt regulations that prescribe minimum efficiency levels for appliances. The Energy Commission first adopted appliance efficiency regulations in 1976 and has periodically revised them since then. The current regulations include provisions on testing of appliances to determine their efficiency, reporting of data by manufacturers to the Energy Commission, standards establishing mandatory efficiency levels, and compliance and enforcement procedures, as well as general provisions on the scope of the regulations and definitions.

The existing appliance efficiency regulations include efficiency standards for digital television adapters or DTAs, which are commercially-available electronic products for the sole purpose of converting digital video

terrestrial broadcast signals to analog (NTSC) (standard adopted by the National Television System Committee of the Federal Communications Commission) video signals for use by a TV or VCR. The efficiency regulations for DTAs, which were adopted on December 15, 2004 (less than five years ago), are scheduled to take effect on January 1, 2008.

In the rulemaking proceeding that is the subject of this Notice of Proposed Action ("NOPA"), the Energy Commission is proposing to repeal the energy efficiency standards for DTAs.

Pursuant to Public Resources Code section 25402(c)(3), during the period of five years after the Energy Commission has adopted an appliance efficiency standard for a particular appliance, **no increase or decrease in the minimum level of operating efficiency required by the specific appliance efficiency standard can become effective, unless the Energy Commission adopts other cost-effective measures for that appliance.** Because the appliance efficiency standards for DTAs were adopted within the five year period prescribed by section 25402(c)(3), the Energy Commission must comply with this section to repeal the DTA standards.

Pursuant to Public Resources Code section 25402(c)(3), the Energy Commission has determined that the proposed repeal of the appliance energy efficiency regulations for DTAs will not result in a decrease in the minimal level of operating efficiency required by the existing DTA standards. Furthermore, the Energy Commission has determined that the repeal of the DTA standards may actually result in a small increase in operating efficiency and in potential cost savings to the consumer; thus, no other cost-effective measures for DTAs will be required.

The basis for this determination is supported by an Energy Commission prepared document titled "Comparison of Savings from the CEC and NTIA DTA Standards" which is listed in the Initial Statement of Reasons (ISOR) as a document relied upon. In summary, subsequent to the adoption of the energy efficiency regulations by the Energy Commission for DTAs, Congress enacted legislation relating to DTAs which resulted in the adoption of federal standards by the National Telecommunications Infrastructure Administration (NTIA) for DTAs sold in the United States. The NTIA standards, while allowing greater power use in both active and standby modes, will result in slightly more energy savings than the Energy Commission's DTA standards because the NTIA standard requires an automatic power-down feature which will increase the hours of operation in the lower power standby mode resulting in a potential 5 kWh/year lower energy use and energy cost for the consumer.

NOTE: Without formally adopting the NTIA standard for DTAs as a requirement for sale of DTAs in California, the Energy Commission recognizes that the NTIA standard will apply to DTAs sold throughout the United States and will result in a small improvement in operational efficiency for DTAs sold in California.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

None.

FEDERAL LAW

The proposed amendments do not conflict with federal law.

The proposed amendments are not mandated by federal law.

There are extensive federal regulations on appliance efficiency regulations adopted by the Department of Energy that preempt similar regulations adopted by the Energy Commission. (See 42 U.S.C. Section 6291 et seq.; 10 CFR Parts 430, 441.) The proposed amendments regulate appliances that are not covered by these federal regulations.

There are regulations that have been adopted by the National Telecommunications Infrastructure Administration (NTIA) for DTAs being sold in the United States, but these regulations do not preempt the Energy Commission's appliance efficiency regulations.

OTHER STATUTORY REQUIREMENTS

California law requires that the Energy Commission's appliance efficiency standards (1) apply to appliances that use a significant amount of energy on a statewide basis, (2) be based on feasible and attainable efficiencies or feasible improved efficiencies, and (3) be cost-effective based on a reasonable use pattern (i.e., not result in added total costs to the consumer, considering both any increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance). [Public Resources Code § 25402(c)(1).]

Public Resources Code Section 25402(c)(3) requires that if during a period of five years after the Energy Commission has adopted a standard for a particular appliance, no increase or decrease in the minimum level of operating efficiency required by the specific appliance efficiency standard (e.g., for DTAs) shall become effective, unless the Energy Commission adopts other cost-effective measures for that appliance.

LOCAL MANDATE

The proposed amendments will not impose a mandate on state or local agencies or districts.

ECONOMIC AND FISCAL IMPACTS

The Energy Commission has made the following initial determinations.

FISCAL IMPACT

Costs Requiring Reimbursement. The proposed amendments will not impose on local agencies or school districts any costs for which Government Code sections 17500–17630 require reimbursement.

Other Non-Discretionary Costs or Savings for Local Agencies. Local agencies that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs.

Costs or Savings for State Agencies. State agencies that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs.

Cost or Savings in Federal Funding to the State. The proposed amendments will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

There will be no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission has made an initial determination that there will be no significant (or insignificant) statewide adverse economic, fiscal, or environmental impact directly affecting businesses, including small businesses, as a result of the proposed amendments, including the ability of California businesses to compete with businesses in other states.

Nevertheless, the Energy Commission invites interested persons to submit alternative proposals to lessen

any adverse economic impact on business that might exist, which may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements, or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

IMPACTS ON THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE, THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES, OR THE EXPANSION OF BUSINESSES IN CALIFORNIA

The proposed amendments will have no impact on the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

Businesses and individuals that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always more than made up by reductions in natural gas and electricity bills. In this rulemaking, however, none of the proposed amendments will result in increased purchase costs. Therefore, the Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORTS

The proposed amendments to repeal the DTA energy efficiency standards would eliminate the existing mandatory requirement for manufacturers to submit energy efficiency data (i.e., Business Reports) to the Energy Commission concerning the DTAs they manufacture.

SMALL BUSINESS

Like all businesses, small businesses benefit from appliance regulations. Small businesses that purchase appliances subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always more than made up by reductions in natural gas and electricity bills. In this rulemaking, however, the proposed amendments do not affect small businesses with an increase purchase cost (see Energy Commission prepared document titled "Comparison of Savings from the CEC and NTIA DTA Standards.").

ALTERNATIVES

Before it adopts the proposed amendments, the Energy Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected private persons than the proposed amendments. To date, the Energy Commission has found no alternatives to the proposed action that would be more effective, or as effective and less burdensome.

DESIGNATED CONTACT PERSONS

Please contact the following person, preferably by e-mail, for general information about the proceeding or to obtain any document relevant to the proceeding, including the Express Terms, the Initial Statement of Reasons, the Form 399, and any other document in the rulemaking file:

Linda Franklin
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4064 Fax: 916-654-4304
E-mail: LFrankli@energy.state.ca.us

Please contact the following person, preferably by e-mail, for substantive questions:

Bill Staack, Senior Staff Counsel
California Energy Commission
1516 Ninth Street, Mail Station 14
Sacramento, California 95814-5512
Telephone: 916-654-3873
Fax: 916-654-3843
E-mail: Wstaack@energy.state.ca.us

The backup contact person for substantive questions is:

Betty Chrisman
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4080
Fax: 916-654-4304
E-mail: BChrisma@energy.state.ca.us

Bill Staack, Betty Chrisman and Julie Mumme [916-654-3851 or jmumme@energy.state.ca.us] also can assist in obtaining documents and in answering general questions.

PUBLIC ADVISER

The Energy Commission's Public Advisor provides public assistance in participating in Energy Commission activities. If you would like information on how to participate in this proceeding, please contact the Public Advisor's Office by phone at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by email at pao@energy.state.ca.us.

NEWS MEDIA INQUIRIES

News media inquiries should be directed to Claudia Chandler, Assistant Executive Director, at (916) 654-4989.

AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS (EXPRESS TERMS), THE INITIAL STATEMENT OF REASONS (ISOR), AND THE INFORMATION UPON WHICH THE PROPOSAL IS BASED (RULEMAKING FILE)

The first action to take to obtain documents in this rulemaking proceeding is to visit the Energy Commission's appliance website:

www.energy.ca.gov/appliances.

The website will have all of the documents prepared by the Energy Commission, including the Express Terms of the proposed amendments (written in plain English and set forth in a format that indicates both the existing text and the proposed text), the Initial Statement of Reasons, and all documents relied upon by the Commission, as well as most of the other documents in the rulemaking file.

The Express Terms and the Initial Statement of Reasons are also available at no cost from the contact person, Linda Franklin (see above).

The Energy Commission's Docket Office has available all of the documents in the rulemaking file; for copies, please contact:

Docket Office
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, California 95814-5504
916-654-5076

AVAILABILITY OF MODIFIED AMENDMENTS (15-DAY LANGUAGE)

At the October 10, 2007 adoption hearing, the Energy Commission may adopt the proposed amendments substantially as described in this NOPA. If modifications are made, and they are sufficiently related to the originally-proposed amendments, the full modified text with changes clearly indicated will be made available to the public at least 15 days before the Energy Commission adopts the amendments. A notice of the availability of any such text will be placed on the Energy Commission's website and will be mailed to all persons to whom this notice is being mailed, who submitted written or oral comments at any hearing, who submitted written comments during the public comment period, or who requested to receive such modifications. In addition, copies may be requested from the contact person named above and from the Docket Office. The Energy Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public. Adoption of the 15-Day language will be considered at a public hearing scheduled in the notice of availability.

FINAL STATEMENT OF REASONS

The Energy Commission will prepare a Final Statement of Reasons on the amendments, responding to all relevant comments made during the proceeding. The Final Statement of Reasons will be available from the contact person named above and from the Docket Office, and will be posted on the Energy Commission's website.

INTERNET ACCESS

Documents prepared by the Energy Commission for this rulemaking, including this NOPA, the Express Terms, the ISOR, and most other documents in the rulemaking file, will be posted on the Energy Commission's website, <http://www.energy.ca.gov/appliances>.

Note: The California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.

GENERAL PUBLIC INTEREST

BOARD OF EQUALIZATION

**NOTICE OF RESCHEDULED PUBLIC HEARING
TO DISCUSS THE PROPOSED REGULATORY
ACTION BY THE STATE BOARD OF
EQUALIZATION TO REPEAL THE RULES OF
PRACTICE AND ADOPT THE PROPOSED
RULES FOR TAX APPEALS**

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board) has rescheduled the public hearing on the above referenced regulatory action from the originally noticed date of September 11, 2007. (See notice published in the July 27, 2007, California Regulatory Notice Register 2007, Number 30-Z.) A rescheduled public hearing will be held on the proposed regulatory action during the regularly scheduled Board meeting to be conducted on September 12, 2007, in Room 121, 450 N Street, Sacramento, CA at 9:30 a.m., or as soon thereafter as the matter may be heard.

Questions regarding the substance of the proposed regulatory actions should be directed to Mr. Bradley Heller, (916) 324-2657, email bradley.heller@boe.ca.gov, or by mail to: State Board of Equalization, Attn: Bradley Heller, MIC:82, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notices of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed regulatory action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov, or by mail to: State Board of Equalization, Attn: Diane Olson, MIC: 80, P.O. Box 942879-0080, Sacramento, CA 94279-0080 by September 12, 2007.

DEPARTMENT OF FISH AND GAME

**CONSISTENCY DETERMINATION
Fish and Game Code 2080.1
Tracking Number 2080-2007-019-03**

PROJECT: Alternative Intake Project
LOCATION: Victoria Canal on Victoria Island, San Joaquin and Contra Costa Counties, Ca
NOTIFIER: Contra Costa Water District

BACKGROUND

The primary objective of the project is to protect and improve the quality of water delivered to Contra Costa Water District's (CCWD) untreated and treated-water customers by constructing a new, screened water intake and pump station located along the lower third of Victoria Canal on Victoria Island in the central Delta, and a pipeline that would extend from the new intake directly across Victoria Island and Old River and tie into CCWD's existing old River conveyance system on Byron Tract.

The proposed action would include a new intake at a location with better quality water, but would not increase CCWD's total diversion capacity (rate or average annual quantity). The new intake would have a capacity of up to 250 cubic feet per second (CFS) and would be a part of the Old River conveyance system. The existing Old River intake and pump station, with a current capacity of 250 cfs, would remain in use. The combined permitted capacity of the Old River conveyance system would remain 250 cfs. Rock Slough would continue to provide a portion of CCWD's water supply, but would be used less frequently under the proposed action because of the operational flexibility a new intake with better water quality would provide. The Mallard Slough intake would continue to provide a portion of CCWD's water supply in a manner similar to its current operations.

Implementation of the proposed action would provide CCWD with the operational flexibility to divert water from either the new intake on Victoria Canal or the existing Old River intake, or to blend waters from Victoria Canal and Old River, to provide the highest water quality for CCWD customers. The proposed action would involve adding a new point of diversion to certain existing water rights held by CCWD and by the Bureau of Reclamation. CCWD would not seek to increase its water rights, Central Valley Project (CVP) contract amounts, or permitted Los Vaqueros Reservoir filling rates through this action.

Construction of the new, screened intake and pump station will require a new levee configuration consisting of additional earthen fill, replacement of existing riprap, placement of new riprap, channel excavation and placement of intake footprint along Victoria Canal. This construction will result in the permanent loss of approximately 0.7 acres of shallow water habitat for delta smelt, Sacramento winter-run Chinook salmon, and Central Valley spring-run Chinook salmon, and the filling of approximately 900 feet of drainage ditch, impacting giant garter snake habitat. Delta smelt, Central Valley spring-run Chinook salmon, and giant garter snake are listed as threatened species and Sacramento winter-run Chinook salmon are listed as an endangered

species under both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 *et seq.*).

CCWD will create a new drainage ditch around the new levee configuration resulting in approximately 1,050 feet of drainage ditch on site and will acquire 2.1 acres of shallow water habitat that will be permanently protected and managed as approved by the United States Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the Department of Fish and Game (DFG).

Because the project will result in the permanent direct and indirect impacts to delta smelt, Sacramento winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and giant garter snake habitat and has the potential to take a species listed under ESA, CCWD consulted with USFWS and NMFS. On April 27, 2007, USFWS issued a "no jeopardy" biological opinion (No. 1-1-07-F-0044) and on July 3, 2007, NMFS issued a "no jeopardy" biological opinion (No. 2005/00122). The biological opinions describe the project and set forth measures to avoid and mitigate project impacts to delta smelt, Sacramento winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and giant garter snake.

On July 6, 2007, the Director of DFG received correspondence from CCWD requesting a determination pursuant to Section 2080.1 of the Fish and Game Code that the biological opinions and associated Incidental Take Statements are consistent with CESA.

DETERMINATION

DFG has determined that the Biological Opinions, including their Incidental Take Statements, are consistent with CESA for the construction of the Project. However, DFG has determined that the Biological Opinions, including their Incidental Take Statements are not consistent with CESA, as written, for the maintenance and operation of the Project, including any impacts from the addition of a new point of diversion.

Project Construction

Project construction and mitigation measures, as described, meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, delta smelt, and giant garter snake for the following reasons: The take will be incidental to an otherwise lawful activity (i.e., construction of a new intake and fish screen), adequate minimization measures identified in the ASIP are incorporated into the Biological Opinions, habitat will be created on-site, habitat purchased off-

site will provide additional compensation to minimize and fully mitigate the impacts of the authorized take, and the Project construction will not jeopardize the continued existence of the species. These minimization and mitigation measures for Project construction include but are not limited to the following:

1. Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and delta smelt:
 - a) CCWD shall install the sheet pile cofferdam between August 1 and November 30 using a vibration hammer to minimize effects to delta smelt and Chinook salmon due to underwater sound pressure levels (SPL). If percussion hammers are used, CCWD shall monitor underwater SPLs to ensure they do not exceed 180 decibels.
 - b) CCWD shall use low-flow pumps with screened intakes during dewatering operations.
 - c) CCWD shall implement a Fish Rescue Plan consistent with NMFS Electrofishing Guidelines (NMFS 2000).
 - d) CCWD shall maintain the screen to NMFS operating criteria as long as the diversion is in use.
 - e) To compensate for the loss of 0.7 acres of shallow water habitat, CCWD shall acquire, conserve, fund and manage at least 2.1 acres (3:1 ratio) of shallow water habitat at a mitigation bank or other location approved by USFWS, DFG, and NMFS. The 2.1 acres shall be conserved through fee title transfer or a conservation easement acceptable to USFWS, DFG, and NMFS. A management plan acceptable to USFWS, DFG, and NMFS is required for the mitigation site. The management plan shall be developed prior to acquisition of mitigation land and shall include, but not be limited to; description of the habitat, habitat enhancement to the site, monitoring and management of invasive aquatic plant species, maintaining shallow water habitat depth criteria, success criteria and adaptive management if not met. If 2.1 acres cannot be acquired prior to project impacts, CCWD shall provide DFG the following:
 1. Prior to construction, CCWD shall provide an Irrevocable Letter of Credit or other form of security approved by USFWS, DFG, and NMFS in the amount of \$73,500 (\$35,000/acre), to cover the costs of land acquisition, land conservation, and land management planning. The Security shall allow DFG to draw on the principal sum if DFG, at its sole discretion, determines that CCWD has failed to acquire the required 2.1 acres of shallow water habitat within 1 year of project impacts;

2. Prior to construction, CCWD shall provide payment in the form of a check in the amount of \$10,500 (\$5000/acre) for use as principal for a permanent capital endowment. Interest from this amount shall be available for the operation, management and protection of the mitigation lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the mitigation lands. The endowment principal shall not be drawn upon unless such withdrawal is deemed necessary by DFG to ensure the continued viability of the species on the mitigation lands.
- f) CCWD shall install a state-of-the-art positive barrier fish screen that would minimize fish entrainment and impingement at the new Victoria Canal intake. To ensure that the fish screen operates as intended and the risks of incidental take associated with the diversions at this facility are in conformance with the Federal and State Endangered Species Acts, long-term monitoring of operation and maintenance of the positive barrier fish screen shall be conducted. Monitoring at the onset of diversions through the Victoria Canal intake would include approach velocity measurements immediately after initiation of the positive barrier screen operations, with fine-tuning of velocity control baffles or other modifications as necessary, to achieve uniformity of velocities in conformance with the screen criteria (≤ 0.2 feet/second) established by DFG and NMFS, and mandated by USFWS in a number of biological opinions. Long-term velocity tests have been scheduled at 5-year intervals for the Old River Fish Screen Facility, and a similar schedule to test for effectiveness will be implemented for ensuring proper functionality of the proposed action's positive barrier fish screen.
- g) CCWD will incorporate entrainment monitoring for fish eggs, larvae, and juveniles at the new Victoria Canal intake consistent with the on-going fishery monitoring being conducted at the Old River Fish Facility. Informal consultations with NMFS, USFWS, and DFG has indicated that a monitoring program as frequent and long-term as that at the Old River Fish Screen Facility is likely not necessary due to the similarities in screen design and the proven effectiveness of the Old River screen. Consequently entrainment monitoring will be conducted at the Victoria Canal intake for the first year of operation. Following one year of entrainment monitoring, CCWD will issue a performance report within 60 days to NMFS, USFWS, and DFG as a cumulative record of monitoring and communications with the regulatory agencies. Using the 1-year monitoring results, CCWD will recommend continuation, modification, or discontinuation of the biological monitoring program for approval by NMFS, USFWS, and DFG, and then an assessment will be made whether further sampling is necessary, or should be integrated with Old River intake sampling.
2. giant garter snake:
 - a) CCWD shall not conduct construction activities in giant garter snake (GGS) habitat after October 1. If CCWD proposes to continue construction in GGS habitat after October 1, CCWD must re-initiate consultation with the USFWS and DFG.
 - b) To minimize project effects to GGS during filling of the 900 foot drainage ditch, CCWD shall have a biological monitor, approved by DFG and USFWS, onsite during all ditch filling activities. The biological monitor shall ensure that take of GGS is minimized during filling of the ditch by monitoring the ditch for GGS in advance of and during ditch filling. The biological monitor shall have full authority to stop project work if needed to ensure GGS are not taken. If CCWD does not have a biological monitor onsite during said activities, DFG and/or USFWS shall have full authority to stop activities to fill the 900 foot ditch until an approved biological monitor is onsite.
 - c) To compensate for project effects to GGS habitat by filling of 900 foot drainage ditch, CCWD shall create GGS habitat at a ratio of at least 1.1 to 1 (compensation:effect). The created ditch shall be constructed prior to ditch filling OR the created ditch shall be completed within 6 months of initiation of ditch filling activities and prior to October 1 of the year impacts to ditch occur. The created ditch shall be onsite and shall reconnect onsite drainage ditch adjacent to where 900 foot ditch previously existed. If the created ditch is not completed by October 1, then CCWD shall provide financial security to DFG, in the form of an Irrevocable Letter of Credit or other form acceptable to DFG and USFWS, in the amount of \$165,000 to cover the costs of ditch creation. The financial security shall be provided prior to November 1 of the year impacts to 900 foot ditch occurred and shall be in place until all ditch creation activities are completed.

Project Maintenance and Operations

Project operations and maintenance, including an additional point of diversion (collectively referred to

hereafter as “Project Operations”), as described in the Biological Opinions, including their incidental take statements, do not meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of Sacramento River winter–run Chinook salmon, Central Valley spring–run Chinook salmon, delta smelt, and giant garter snake because the Biological Opinions do not disclose the operational impacts of the Project or identify required mitigation with sufficient specificity. No take limits for Project Operations are provided, and no mitigation or avoidance measures to address Project Operations are included.

Conclusion

Pursuant to Section 2080.1 of the Fish and Game Code, no incidental take authorization under CESA will be required for incidental take of winter–run and spring–run Chinook salmon, delta smelt, and giant garter snake from construction of the Project, provided CCWD complies with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project construction including changes to the mitigation measures or if NMFS or USFWS amends or replaces their biological opinion, CCWD will be required to obtain a new consistency determination or a CESA Incidental Take Permit (in accordance with Fish and Game Code section 2081) from the Department.

However, DFG has determined there is substantial evidence that the biological opinions are not consistent with CESA for Project Operations. Pursuant to 2080.1(c) of the Fish and Game Code, with this determination of inconsistency, a section 2081(b) incidental take permit must be obtained for any incidental take of Delta smelt, Central Valley spring–run Chinook salmon, Sacramento winter–run Chinook salmon and giant garter snake from Project Operations.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication August 24, 2007

CESA CONSISTENCY DETERMINATION FOR
Green Diamond Resource Company Aquatic Habitat
Conservation Plan Project
Del Norte and Humboldt Counties

The Department of Fish and Game (“Department”) received notice on February 15, 2007 that the Green Diamond Resource Company proposes to rely on its consultation with the National Marine Fisheries Service (“NMFS”) to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). The project consists of imple-

mentation of Green Diamond’s forest management activities on approximately 416,531 acres of forestland owned by Green Diamond, including harvesting and transporting timber, timber stand regeneration and improvement, and road and landing construction, reconstruction, and maintenance. The proposed project will be implemented in accordance with the Aquatic Habitat Conservation Plan and Implementing Agreement.

On July 1, 2007, NMFS issued Green Diamond an Incidental Take Permit (No. 1613) which authorizes incidental take of the federally and state threatened Southern Oregon/Northern California Coast ESU Coho Salmon (*Oncorhynchus kisutch*). The Incidental Take Permit requires KCWMD to implement an Aquatic Habitat Conservation Plan that NMFS approved in October 2006.

Pursuant to California Fish and Game Code Section 2080.1, Green Diamond is requesting a determination that Incidental Take Permit 1613, which requires Green Diamond to fully implement the Aquatic Habitat Conservation Plan, is consistent with the requirements of CESA. If the Department determines that the Incidental Take Permit is consistent with CESA, Green Diamond will not be required to obtain a separate permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

INCONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080–2007–017–02

PROJECT: Oroville Facilities FERC Relicensing Project 2100
LOCATION: Oroville, Butte County, California
NOTIFIER: California Department of Water Resources

BACKGROUND

On June 18, 2007, the Director of the Department of Fish and Game (“DFG”) received a request from the California Department of Water Resources (“DWR”) for a consistency determination for giant garter snake (*Thamnophis gigas*) and bald eagle (*Haliaeetus leucocephalus*) under the California Endangered Species Act (“CESA”) (Fish and Game Code, §2050 *et seq.*) pursuant to California Fish and Game Code (“Code”) Section 2080.1 for the Oroville Facilities Relicensing Project 2100.

The Oroville Facilities are operated in part pursuant to a license issued by the Federal Energy Regulatory

Commission (“FERC”). The existing license for the Oroville Facilities, issued on February 11, 1957, expired on January 31, 2007. The Oroville Facilities are currently operating under an annual license issued by FERC effective February 1, 2007. If a new license is not issued on or before January 31, 2008, this annual license will be renewed automatically. DWR is seeking a new 50-year federal license from FERC to continue generating hydroelectric power while continuing to meet existing commitments and complying with regulations pertaining to water supply, flood control, the environment, and recreational opportunities.

The objective of the project is the continued operation and maintenance of the Oroville Facilities for electric power generation, water project storage and delivery, flood control and recreation, including implementation of any terms and conditions to be considered for inclusion in a new FERC hydroelectric license.

As an integral part of the SWP, water stored in Lake Oroville is released from the Oroville Facilities to meet a variety of statutory and contractual water supply, flood management, and environmental commitments. These obligations are defined in numerous operating agreements that specify timing, flow limits, storage amounts, and/or constraints on water releases. The project is consistent with these existing commitments and no changes to the contractual obligations or to the general pattern of these releases are anticipated.

The Oroville Facilities are also important components of the Sacramento River Flood Control Project, the flood management system for areas along the Feather and Sacramento rivers downstream of Oroville Dam. The Oroville Facilities provide flood protection benefits to Oroville, other portions of Butte County, Marysville, Yuba City, other portions of Yuba and Sutter counties, and many smaller communities downstream to Sacramento. The Oroville Facilities also provide protection to 283,000 acres of developed agricultural lands and a variety of transportation and other public utility infrastructure. Pursuant to Section 204 of the Flood Control Act of 1958, flood control operations at Oroville are governed by the rules and regulations prescribed by the Secretary of the Army. The Proposed Project is consistent with existing U.S. Army Corps of Engineers (USACE) flood management objectives.

On April 9, 2007, the U.S. Fish and Wildlife Service issued a biological opinion (BO), (No. 1-1-07-F-0049) to DWR for the project. The BO described the project and set forth measures to minimize project impacts to giant garter snake (*Thamnophis gigas*) and bald eagle (*Haliaeetus leucocephalus*).

DETERMINATION

DFG has determined that the BO, including its incidental take statement (“ITS”) is not consistent with CESA because the mitigation measures therein do not meet the conditions set forth in Fish and Game Code Section 2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA-listed species. Specifically, DFG has determined that:

1) The BO authorizes take of bald eagles, including nest abandonment that may result in mortality of chicks. Bald eagles are fully protected birds under California law and pursuant to Fish and Game Code section 3511, take cannot be authorized. Therefore the ITS authorizing mortality of bald eagle chicks under ESA is not consistent with CESA, and DWR must operate and maintain the project in a manner that avoids any take of bald eagles.

2) The BO does not disclose Giant garter snake impacts or identify required mitigation with sufficient specificity. The BO requires that the loss of as many as 450 acres of snake habitat may be mitigated through either the purchase of credits at an approved mitigation bank or “on site preservation” in accordance with the Service’s 1997 GGS guidelines, but there is no basis for calculating the amount of mitigation habitat that must be acquired or the amount that must be managed on-site because those guidelines depend heavily on duration and size of impacts, and the BO discloses neither. Additionally, the nature of on-site management activities is not defined in the BO, but would be determined at a future date, and the option of on-site mitigation does contain requirements for permanent preservation of habitat beyond the term of the license, nor does it discuss long-term funding and performance security for the mitigation lands. These details need to be enumerated in the BO for DFG to be able to find the BO consistent with CESA.

For these reasons, DFG has determined there is substantial evidence that the biological opinions (U.S. Fish and Wildlife Service 1-1-07-F-0049 and NOAA Fisheries SWR-02-SA-6055:SRB) are not consistent with CESA. Pursuant to section 2080.1(c) of the Fish and Game Code, with this determination of inconsistency, a section 2081(b) incidental take permit must be obtained for any incidental take of the giant garter snake (*Thamnophis gigas*) as a result of the activities described in the federal biological opinion. As explained above, mortal-

ity of bald eagles must be avoided during implementation of the project.

**OAL REGULATORY
DETERMINATIONS**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS**

**(Pursuant to Government Code Section 11340.5
and
Title 1, section 270, of the
California Code of Regulations)**

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

**2007 OAL DETERMINATION No. 9
(OAL FILE # CTU 07-0525-02)**

REQUESTED BY: INFINITY (AKA KEITH A. BROWN)
**AGENCY: DEPARTMENT OF CORRECTIONS
AND REHABILITATION AND
IRONWOOD STATE PRISON**
**CONCERNING: OPERATIONAL PROCEDURE #119
DETERMINATION ISSUED
PURSUANT TO GOVERNMENT
CODE SECTION 11340.5.**

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule is an “underground regulation” as defined in Government Code section 11340.5¹ and California Code of Regulations, title 1, section 250, and

must therefore be adopted pursuant to the Administrative Procedure Act (APA). OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

ISSUE

The sole issue for OAL is whether Operational Procedure #119, entitled “General Population Yard Procedures,” issued by Ironwood State Prison constitutes an underground regulation pursuant to section 11340.5.

DETERMINATION

OAL determines that Operational Procedure #119 meets the definition of a regulation pursuant to section 11342.600, however, it is exempt from the requirements of the APA pursuant to Penal Code section 5058 and is therefore not an underground regulation.

FACTUAL BACKGROUND

In May, 2007, the petitioner submitted a petition to OAL alleging that the California Department of Corrections and Rehabilitation (CDCR) and Ironwood State Prison (ISP) issued, used, enforced, or attempted to enforce an underground regulation as defined in California Code of Regulations, title 1, section 250, in violation of Government Code section 11340.5. The alleged underground regulation is Operational Procedure #119 (OP #119), issued by Ironwood State Prison. The title of OP #119 is “General Population Yard Procedures.”

OP #119 is dated December, 2005. It is signed by Derrick Ollison, Warden (A) of ISP. OP #119 deals with many issues including inmate movement from cell to library, support groups, religious services, and documentation for the orientation of new inmates. It also establishes a procedure for making telephone calls, having access to showers and other aspects in inmate life.

PETITIONER’S ARGUMENT

The petitioner argues that OP #119 is a regulation within the meaning of Government Code section 11342.600. He contends that OP #119 does not fall under any express statutory exemption from the APA, and must, therefore, be adopted as a regulation pursuant to the APA.

AGENCY RESPONSE

CDCR did not submit a response to this petition.

UNDERGROUND REGULATIONS

Section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA. It states, in part:

¹ Unless specified otherwise code references are to the California Government Code.

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation. "Underground regulation" is defined in California Code of Regulations, title 1, section 250 as follows:

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

OAL is empowered to issue its determination as to whether or not an agency employs an underground regulation pursuant to section 11340.5 subdivision (b). An OAL determination that an agency is using an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to "due deference"² in any subsequent litigation of the issue.

ANALYSIS

To determine that an agency is in violation of section 11340.5, it must be demonstrated that the alleged underground regulation actually is a regulation as defined by section 11342.600, that it has not been adopted pursuant to the APA, and that it is not subject to an express statutory exemption from the APA.

A regulation is defined in section 11342.600 as:

... every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western Inc. v. Victoria Bradshaw*, (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

² *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure. (Gov. Code § 11342 subd. (g).)

The first element of a regulation is whether the rule applies generally. For an agency rule to be a "standard of general application," it need not apply to all citizens of the state. It is sufficient if the rule applies to all members of a class, kind, or order.³

OP #119 applies to all general population inmates at ISP. This is a "class, kind or order." The first element required by *Tidewater* is therefore met.

The second element is that the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure. Pursuant to Penal Code section 5003, CDCR

... has jurisdiction over the following prisons and institutions:

....

(t) Those other institutions and prison facilities as the Department of Corrections or the Director of Corrections may be authorized by law to establish, including, but not limited to, prisons in Madera, Kern, Imperial, and Los Angeles Counties.

ISP was opened in 1994, by the Department of Corrections and Rehabilitation, which was then known as the Department of Corrections.⁴

OP #119 was issued to implement, interpret, or make specific the Penal Code which is enforced or administered by CDCR and ISP. The second element in *Tidewater* is therefore met.

The third step in the analysis is to determine whether an exemption from the requirements of the APA applies to the challenged rule. Pursuant to section 11346, the procedures established in the APA "shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly." A

³ *Roth v. Department of Veteran Affairs* (1980) 110 Cal.App.3d 622, 630, 167 Cal.Rptr. 552, 556; see *Faulkner v. California Toll Bridge Authority* (1953) 40 Cal.2d 317, 323-324 (a standard of general application applies to all members of any open class).

⁴ In 2005, the Department of Corrections was reorganized into the Department of Corrections and Rehabilitation. Pursuant to Penal Code section 12838.5, CDCR "... is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist: ... Department of Corrections, ..."

rule which meets the elements established in *Tidewater* but which is expressly exempt from the requirements of the APA is not an underground regulation.

Penal Code section 5058 establishes exemptions expressly for CDCR (emphasis added):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility...

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution. OP #119 was issued by the Warden of ISP, and applies only to inmates at ISP.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a “local rule” dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

.....

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, OP #119 applies only to inmates at ISP. Similar inmates housed at other institutions are controlled by that other institution’s internal policies. Therefore, OP #119 is a “local rule” and is exempt from compliance with the APA.

CONCLUSION

For these reasons, OAL concludes that OP #119 issued by Ironwood State Prison is a local rule and is not, therefore, an underground regulation.

Date: August 10, 2007

/s/

Susan Lapsley
Director

/s/

Kathleen Eddy
Senior Counsel

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DEPARTMENT OF CORRECTIONS AND REHABILITATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

(Pursuant to Government Code Section 11340.5 and

Title 1, section 270, of the California Code of Regulations)

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

**2007 OAL DETERMINATION No. 8
(OAL FILE # CTU 07-0525-01)**

REQUESTED BY: JIMMY VAN PELT
AGENCY: DEPARTMENT OF CORRECTIONS AND REHABILITATION AND SAN QUENTIN STATE PRISON
CONCERNING: ATTACHMENT 1 TO OPERATIONAL PROCEDURE IP #215 ISSUED BY SAN QUENTIN STATE PRISON
DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule is an “underground regulation” as defined in Government Code section 11340.5¹ and section 250 of Title 1 of the California Code of Regulations, and must, therefore be adopted pursuant to the Administrative Procedure Act (APA). OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

ISSUE

The sole issue for OAL is whether Attachment 1, entitled *Condemned Inmate Allowable Property*, to Op-

¹ Unless specified otherwise code references are to the California Government Code.

erational Procedure IP #215, issued by San Quentin State Prison constitutes an underground regulation pursuant to section 11340.5.

DETERMINATION

OAL determines that Attachment 1 to Operational Procedure IP #215 meets the definition of a regulation in section 11342.600 and would normally be required to be adopted as a regulation pursuant to the APA. The Attachment, however, pursuant to Penal Code section 5058, falls under an express exemption from the requirements of the APA and is not, therefore, an underground regulation.

FACTUAL BACKGROUND

In May 2007, the petitioner submitted a petition to OAL alleging that the California Department of Corrections and Rehabilitation (CDCR) and San Quentin State Prison (SQSP) issued, used, enforced, or attempted to enforce an underground regulation as defined in section 250 of Title 1 of the California Code of Regulations, in violation of Government Code section 11340.5. The alleged underground regulation is contained in Attachment 1 to Operational Procedure IP #215,² issued by San Quentin State Prison.

Attachment 1 to IP #215, entitled "Condemned Inmate Allowable Property" ("Attachment 1") is dated October 2, 2006. It is signed by the Facility Captain of Specialized Housing, the Associate Warden of Specialized Housing and the Warden of SQSP. It is a matrix which identifies all allowable property for a condemned inmate.

PETITIONERS' ARGUMENT

The petitioner argues that Attachment 1 is a regulation within the meaning of Government Code section 11342.600. He contends that Attachment 1 does not fall under any express statutory exemption from the APA, and must, therefore, be adopted as a regulation pursuant to the APA.

AGENCY RESPONSE

CDCR did not submit a response to this petition.

UNDERGROUND REGULATIONS

Section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA. It states, in part:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation. "Underground regulation" is defined in Cal. Code Regs., title 1, section 250 as follows:

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

OAL is empowered to issue its determination as to whether or not an agency employs an underground regulation pursuant to section 11340.5 subdivision (b). An OAL determination that an agency is using an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to "due deference"³ in any subsequent litigation of the issue.

ANALYSIS

To determine that an agency is in violation of section 11340.5, it must be demonstrated that the alleged underground regulation actually is a regulation as defined by section 11342.600, that it has not been adopted pursuant to the APA, and that it is not subject to an express statutory exemption from the APA.

A regulation is defined in section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western Inc. v. Victoria Bradshaw*, (1996)14 Cal.4th 557, 571, the California Supreme Court found that:

³ *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

² The petition contained only a copy of Attachment 1 and did not contain a copy of IP #215, therefore, this determination is limited to an examination of Attachment 1.

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure (Gov. Code § 11342 subd. (g).)

The first element of a regulation is whether the rule applies generally. For an agency rule to be a "standard of general application," it need not apply to all citizens of the state. It is sufficient if the rule applies to all members of a class, kind, or order.⁴

Attachment 1, by its own terms, applies to all condemned prisoners at SQSP. This is a "class, kind or order." The first element required by *Tidewater* is therefore met.

The second element is that the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure. Pursuant to Penal Code section 5003, CDCR

...has jurisdiction over the following prisons and institutions:

- (a) The California State Prison at San Quentin.
- (b) ...

Attachment 1 was issued to implement, interpret, or make specific the Penal Code which is enforced or administered by CDCR and SQSP. The second element in *Tidewater* is therefore met.

The third step in the analysis is to determine whether an exemption from the requirements of the APA applies to the challenged rule. Pursuant to section 11346, the procedures established in the APA "shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly." A rule which meets the elements established in *Tidewater* but which is expressly exempt from the requirements of the APA is not an underground regulation.

Penal Code section 5058 establishes exemptions expressly for CDCR (emphasis added):

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility, provided. . .

The first of these exemptions is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution. Attachment 1 was issued by SQSP personnel, and specifically applies only to condemned inmates at SQSP.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a "local rule" dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances. Inmates housed at other institutions are controlled by that institution's correspondence policies. Inmates housed at other facilities are affected by Donovan rules only if they seek to correspond with Donovan inmates. However, their ability to correspond with any other individual is unaffected.

Similarly, Attachment 1 applies only to condemned inmates at SQSP. Similar inmates housed at other institutions are controlled by that other institution's property policies. Therefore, Attachment 1 is a "local rule" and is exempt from compliance with the APA.

CONCLUSION

For these reasons, OAL concludes that Attachment 1 issued by San Quentin State Prison is a local rule and is not, therefore, an underground regulation.

Date: August 8, 2007

/s/
Susan Lapsley
Director

/s/
Kathleen Eddy
Senior Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

⁴ *Roth v. Department of Veteran Affairs* (1980) 110 Cal.App.3d 622, 630, 167 Cal.Rptr. 552, 556; see *Faulkner v. California Toll Bridge Authority* (1953) 40 Cal.2d 317, 323-324 (a standard of general application applies to all members of any open class.)

DISAPPROVAL DECISIONS

DEPARTMENT OF SOCIAL SERVICES

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

In re:

DEPARTMENT OF SOCIAL SERVICES

REGULATORY ACTION:

Title 22, California Code of Regulations

Adopt Sections: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, and 86588

MANUAL OF POLICIES AND PROCEDURES

AMEND SECTIONS: 11-400c, 11-402, 45-101(c), 45-202.5, 45-203.4, AND 45-301.1

DECISION OF DISAPPROVAL OF REGULATORY ACTION

(Gov. Code, sec. 11349.3)

OAL File No. 07-0625-02C

SUMMARY OF REGULATORY ACTION

This regulatory action is the Certificate of Compliance for previously filed emergency regulations that relate to Community Care Licensing Crisis Nurseries. On August 7, 2007 the Office of Administrative Law ("OAL") notified the Department of Social Services ("Department") that OAL disapproved the proposed regulations because they failed to comply with the Authority, Consistency, Clarity and Necessity standards contained in Government Code section 11349.1 and for incorrect Administrative Procedure Act ("APA") procedures.

Date: August 14, 2007

BARBARAECKARD
Senior Staff Counsel

For:

SUSANLAPSLEY
Director

Original: John A. Wagner, Director
Cc: Sandra Ortega, Manager, ORD
Cc: Rick Torres

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Distributed Generated Certification Regulation

Air Resources Board proposes amendment to Title 17 regulations that implement distributed generation certification requirements for distributed generation equipment (DG Units) subject to ARB certification in Health & Safety Code section 41514.9. Amended provisions apply to DG Units manufactured for sale, lease, use, or operation in California and affect current emission standards for DG Units powered by fossil fuels, emission standards effective 2008 and 2013 for DG units powered by specified waste gas fuels, and certification, testing, recordkeeping, recertification, and fees for certification and recertification.

Title 17

California Code of Regulations

ADOPT: 94201.1 AMEND: 94201, 94202, 94203,
94204, 94207, 94208, 94209, 94210, 94211, 94212

Filed 08/08/07

Effective 09/07/07

Agency Contact: Alexa Malik (916) 322-4011

**BUSINESS, TRANSPORTATION AND HOUSING
AGENCY****Passenger Car Rental Industry Tourism Assessment**

This regulatory action is the Certificate of Compliance for emergency regulations that dealt with the following aspects of the Tourism Marketing Act; definitions, industry segments, and the passenger car rental industry tourism assessment, Form OT-100 (1/1/2007)) is incorporated by reference. (Prior OAL files 06-1219-04E and 07-0423-02EE.)

Title 10

California Code of Regulations

ADOPT: 5357, 5357.1, 5357.2, 5358, 5358.1
AMEND: 5350, 5352

Filed 08/13/07

Effective 08/13/07

Agency Contact: Terri Toohey (916) 324-3787

**COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING****Training and Testing Specifications for Peace Officer
Basic Courses**

This regulatory action amends provisions of the "Training and Testing Specifications for Peace Officer Basic Courses" publication that is incorporated by reference into POST regulations. The amendments delete required tests for Learning Domain #17 (Presentation of Evidence), move learning needs dealing with weapons of mass destruction (WMD) from Learning Domain #41 (Hazardous Materials Awareness) to Learning Domain #43 (Emergency Management), and amends and expands LD #43 to incorporate training and testing for WMD and other emergency management amendments.

Title 11

California Code of Regulations

AMEND: 1005, 1007, 1008

Filed 08/08/07

Effective 08/08/07

Agency Contact:

Patricia Cassidy (916) 227-4847

**COMMISSION ON TEACHER CREDENTIALING
Variable Term Waivers**

Changes are being made to the Commission on Teacher Credentialing's Variable Term Waiver program. These regulatory changes affect the timing of submission of the waiver requests, among other things.

Title 5

California Code of Regulations

AMEND: 80124, 80125

Filed 08/09/07

Effective 09/08/07

Agency Contact: Rhonda Brown (916) 323-4714

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION****Inmate Property**

In this emergency regulatory action, the Department of Corrections and Rehabilitation amends regulations relating to the rights and restrictions of inmates in adult institutions with respect to the possession, acquisition, and disposition of personal property. The regulations include the incorporation by reference of a lengthy "authorized personal property schedule."

Title 15

California Code of Regulations

AMEND: 3190, 3191

Filed 08/13/07

Effective 08/13/07

Agency Contact:

Ann Cunningham (916) 341-7325

**DEPARTMENT OF FOOD AND AGRICULTURE
Pests Requiring No Action**

This regulatory action specifies that armored scales of the family Diaspididae found infesting commercial shipments of certain fruits are not subject to regulations pertaining to plant pests.

Title 3

California Code of Regulations

ADOPT: 3152

Filed 08/10/07

Effective 08/10/07

Agency Contact: Stephen Brown (916) 654-1017

**OFFICE OF STATEWIDE HEALTH PLANNING
AND DEVELOPMENT****Hospital Fair Pricing Policies Reporting**

In this regulatory action, the Office of Statewide Health Planning and Development adopts regulations implementing the "Hospital Fair Pricing Policies Reporting" required pursuant to Health and Safety Code section 127435 as contained in Statutes of 2006, Chapter 755 (AB 774). This legislation requires hospitals to report their discount payment and charity care policies and related information.

Title 22

California Code of Regulations

ADOPT: 96040, 96041, 96042, 96043, 96044,
96045, 96046, 96050 AMEND: 96000

Filed 08/08/07

Effective 09/07/07

Agency Contact:

Kenrick J. Kwong (916) 323-7681

STATE WATER RESOURCES CONTROL BOARD
Amendment to the Los Angeles Basin Plan

On March 9, 2006, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. 2006-003 amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan). The amendment revises Basin Plan Chapter 3, "Water Quality Objectives," to incorporate a variance provision for groundwater mineral water quality objectives. This authority allows the Los Angeles Water Board to approve site-specific variances for the groundwater mineral quality objectives when specified conditions are met, based on evidence in the record, and only after a duly noticed public hearing. The variances are to be limited in geographic scope to coastal aquifers where elevated concentrations of minerals are caused by natural sources due to an aquifer's proximity to the coast. On May 22, 2007, the State Water Resources Control Board approved this amendment under Resolution No. 2007-0027.

Title 23

California Code of Regulations

ADOPT: 3939.25

Filed 08/14/07

Agency Contact: Steve Camacho (916) 341-5561

STATE WATER RESOURCES CONTROL BOARD
Revision of the Implementation Plan for Upper Santa Clara River Chloride TMDL

This regulatory action modifies the regulatory provisions of the Implementation Plan for the Upper Santa Clara River Chloride TMDL (Implementation Plan) via Resolution No. 06-016 on August 3, 2006. It accelerates the schedule for compliance with the Total Maximum Daily Load (TMDL) for chloride limits from 13 years to 11 years and adds implementation milestones for TMDL planning. CEQA Notice of Exemption was obtained. SWRCB approved the amendment with Resolution 2007-0029 on 5-22-07.

Title 23

California Code of Regulations

AMEND: 3939.10

Filed 08/15/07

Effective 08/15/07

Agency Contact: Nirmal Sandbar (916) 341-5571

STATE WATER RESOURCES CONTROL BOARD
Basin Plan Amendment for Control of Diazinon & Chlorpyrifos in Delta

On June 23, 2006, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Resolution No. R5-2006-0061 amending the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins. This amendment established a maximum chlorpyrifos concentration of 0.025 micrograms per liter (1-hour average) and 0.015 micrograms per liter (4-day average) and a maximum diazinon concentration of 0.16 micrograms per liter (1-hour average) and 0.10 micrograms per liter (4-day average) that are not to be exceeded more than once in a three-year period. These objectives apply to 146 named Delta waterways within the legal boundaries of the Delta as described in section 12220 of the California Water Code. The Central Valley Water Board also adopted implementation provisions for discharge into the Delta waterways and monitoring provisions. On May 22, 2007, the State Water Resources Control Board approved this amendment under Resolution No. 2007-0028.

Title 23

California Code of Regulations

ADOPT: 3949.4

Filed 08/09/07

Agency Contact:

Michael Buckman (916) 341-5479

SUPERINTENDENT OF PUBLIC INSTRUCTION
California School for the Deaf and Blind — Admissions

This regulatory action establishes criteria for admission to the California Schools for the Deaf and Blind.

Title 5

California Code of Regulations

ADOPT: 17660, 17661, 17662, 17663, 17664,
17665, 17666, 17667

Filed 08/13/07

Effective 08/13/07

Agency Contact: Debra Strain (916) 319-0860

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN MARCH 14, 2007 TO
AUGUST 15, 2007**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/09/07 AMEND: 270
06/28/07 AMEND: 2616

Title 2

08/03/07 AMEND: 58800
08/02/07 ADOPT: 1700
07/18/07 ADOPT: 7288.0, 7288.3 AMEND: 7288.0, 7288.1, 7288.2
07/18/07 AMEND: 18361.2, 18361.4
07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866
07/17/07 AMEND: 1859.2
07/02/07 ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329
07/02/07 ADOPT: 18531.62 AMEND: 18544, 18545
06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106
06/15/07 AMEND: div. 8, ch. 111, sec. 59560
06/13/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37
05/23/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80
05/21/07 AMEND: 18402
05/17/07 ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2,

1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1
AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167, 1859.167.1, 1866.4, 1866.13
REPEAL: 1859.162.1

05/17/07 AMEND: 52900
05/14/07 AMEND: 599.664
05/08/07 ADOPT: 1185.2, 1185.3, 1185.4
AMEND: 1185, 1185.01 (renumbered to 1185.1), 1185.02 (renumbered to 1185.5), 1185.03 (renumbered to 1185.6), 1185.1 (renumbered to 1185.7)
05/08/07 AMEND: div. 8, ch. 48, sec. 53700
04/30/07 AMEND: 1859.124.1
04/25/07 AMEND: 1859.83, 1859.202, 1866
04/16/07 AMEND: 18401
04/04/07 AMEND: 28010 REPEAL: 36000
03/27/07 AMEND: 59560
03/20/07 ADOPT: 18746.3
03/15/07 AMEND: div. 8, ch. 102, section 59100
03/14/07 AMEND: div. 8, ch. 73, section 56200

Title 3

08/10/07 ADOPT: 3152
07/24/07 AMEND: 3591.6(a)(1)
07/23/07 AMEND: 3589(a)
07/20/07 AMEND: 3423(b)
07/20/07 AMEND: 3591.6(a)(1)
07/18/07 AMEND: 3434(b)
07/13/07 AMEND: 3591.20(a)
07/09/07 AMEND: 3433(b)
07/06/07 AMEND: 3589(a)
07/06/07 AMEND: 3591.2(a)
06/21/07 AMEND: 3434(b), 3434(c)
06/13/07 ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793
06/07/07 AMEND: 3434(b)
06/06/07 AMEND: 3434(b)
06/05/07 AMEND: 3591.20(a)
05/31/07 ADOPT: 900, 900.1, 900.2, 901.5, 901.8, 901.9, 901.10, 901.11, 902, 902.1, 902.3, 902.4, 902.5, 902.6, 902.7, 902.8, 902.9, 902.10, 902.11, 902.12, 902.13, 902.14, 903, 903.1, 903.2, 903.3, 903.4, 903.5, 903.6, 903.7, 903.8, 903.9, 903.10, 903.11, 903.12
05/07/07 AMEND: 6860
05/07/07 AMEND: 3433

05/03/07	ADOPT: 3035 REPEAL: 3035, 3035.1, 3035.2, 3035.3, 3035.4, 3035.5, 3035.6, 3035.7, 3035.8, 3035.9	03/19/07	AMEND: 41550
04/25/07	AMEND: 3433(b)	03/19/07	AMEND: 41301
04/23/07	AMEND: 3591.20	Title 8	
04/20/07	ADOPT: 3434	07/23/07	ADOPT: 32993 AMEND: 32990, 32992, 32994, 32995, 32996, 32997 REPEAL: 32991, 32993
04/20/07	AMEND: 3591.20(a)	06/19/07	AMEND: 212.01
04/03/07	AMEND: 3591.20(a), 3591.20(b)	06/15/07	ADOPT: 9792.20, 9792.21, 9792.22, 9792.23
04/02/07	AMEND: 752, 796.6, 1301	06/07/07	ADOPT: 9792.11, 9792.12, 9792.13, 9792.14, 9792.15
03/28/07	AMEND: 3591.2(a)	06/01/07	AMEND: 4543
03/27/07	ADOPT: 1446.9, 1454.16	05/23/07	AMEND: 5001
03/21/07	ADOPT: 3591.20	05/23/07	AMEND: 9767.4, 9767.8, 9768.10, 9788.11
03/15/07	ADOPT: 1371, 1371.1, 1371.2	05/21/07	AMEND: 9768.5, 9788.31
Title 4		05/16/07	AMEND: 8397.16
05/30/07	AMEND: 1481	04/27/07	AMEND: 1801, 8416
05/08/07	AMEND: 1433	04/26/07	ADOPT: 10225, 10225.1, 10225.2
05/07/07	AMEND: 1606	04/24/07	AMEND: 5004, 5047, 8379
04/24/07	ADOPT: 9071, 9072, 9073, 9074, 9075	04/20/07	AMEND: 1620, 1626, 1629
04/19/07	AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10188	04/20/07	AMEND: 5148(c)
Title 5		04/18/07	AMEND: 20299, 20363, 20407
08/13/07	ADOPT: 17660, 17661, 17662, 17663, 17664, 17665, 17666, 17667	03/29/07	AMEND: 3664(a)
08/09/07	AMEND: 80124, 80125	03/27/07	AMEND: 3291, 3292, 3295, 3296
07/31/07	ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6,	Title 9	
07/27/07	AMEND: 50500	06/12/07	AMEND: 10501, 10508, 10511, 10515, 10518, 10522, 10524, 10527, 10529, 10532, 10533, 10545, 10547, 10550, 10561, 10568, 1606, 10608, 10609, 10613, 10615, 10620, 10626, 10630
06/05/07	AMEND: 19802	05/24/07	AMEND: 13035
06/04/07	ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8, 11996.9, 11996.10, 11996.11	05/01/07	ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140,
06/01/07	REPEAL: 41916		
05/30/07	ADOPT: 30920, 30921, 30922, 30923, 30924, 30925, 30926, 30927		
05/18/07	ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854		
05/11/07	AMEND: 30023(c)		
05/07/07	ADOPT: 30910, 30911, 30912, 30913, 30914, 30915, 30916, 30917		
04/27/07	ADOPT: Art. 2.2 (subch. 1, ch. 6), 55151, 55151.5, 55151.7, 58707, 58785, AMEND: 55002, 55150, 58160, 58704, 58770, 58771, 58773, 58774, 58776, 58777, 58779 REPEAL: 58706, 58775		
04/23/07	ADOPT: 30710, 30711, 30712, 30713, 30714, 30715, 30716, 30717, 30718		
04/17/07	AMEND: 18013, 18054, 18068		
04/09/07	ADOPT: 11962, 11962.1		
04/06/07	AMEND: 41301		
03/29/07	AMEND: 42356		

	3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415		999.135, 999.136, 999.137, 999.138, 999.139, 999.140, 999.141, 999.142, 999.143, 999.144, 999.145, 999.146, 999.147, 999.148, 999.149, 999.150, 999.151, 999.152, 999.153, 999.154, 999.165, 999.166, 999.167, 999.168, 999.169, 999.170, 999.171, 999.172, 999.173, 999.174, 999.175, 999.176, 999.177, 999.178, 999.179, 999.190, 999.191, 999.192, 999.193, 999.194, 999.195, 999.196, 999.197, 999.203, 999.204, 999.205, 999.206, 999.207, 999.208, 999.209, 999.210, 999.211, 999.217, 999.218, 999.219, 999.220, 999.221, 999.222, 999.223
Title 10			
08/13/07	ADOPT: 5357, 5357.1, 5357.2, 5358, 5358.1 AMEND: 5350, 5352	06/08/07	ADOPT: 9020 REPEAL: 1019
07/31/07	AMEND: 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6629, 2699.6813	06/08/07	AMEND: 9072
07/26/07	ADOPT: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.4, 2359.5, 2359.6, 2359.7 Repeal: 2555, 2555.1, 2556, 2556.1, 2556.2	06/06/07	AMEND: 1010 (renumber to 9030 to new Chapter 3)
07/09/07	AMEND: 260.140.8, 260.140.41, 260.140.42, 260.140.45, 260.140.46	06/04/07	AMEND: 1081
06/28/07	AMEND: 2498.4.9	06/01/07	ADOPT: 999.6, 999.7, 999.8
06/28/07	AMEND: 2498.6	06/01/07	AMEND: 1005, 1007, 1008
06/28/07	AMEND: 2498.5	04/19/07	ADOPT: 64.5
06/28/07	AMEND: 2498.6	04/19/07	ADOPT: 64.6
06/28/07	AMEND: 2498.5	04/19/07	ADOPT: 64.4
06/28/07	AMEND: 2498.4.9	04/18/07	ADOPT: 64.3
06/28/07	AMEND: 2498.4.9	Title 13	
06/28/07	AMEND: 2498.4.9	08/07/07	AMEND: 794
06/28/07	AMEND: 2498.6	07/25/07	AMEND: 156.00
06/28/07	AMEND: 2498.6	07/16/07	AMEND: 2111, 2112, 2411, 2412, 2413, 2415
05/01/07	AMEND: 2716.1, 2790.1.5, 2810.5 REPEAL: 2716, 2790.1, 2810	07/13/07	AMEND: 330.08
04/26/07	ADOPT: 5357, 5357.1, 5358, 5358.1 AMEND: 5350, 5352	07/13/07	AMEND: 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610 REPEAL: 2611
04/25/07	AMEND: 250.30	07/11/07	ADOPT: 150.08
04/25/07	AMEND: 2697.6, 2697.61	07/09/07	AMEND: 225.18, 225.39, 225.45, 225.54 and 225.63
04/24/07	AMEND: 2498.6	06/29/07	AMEND: 181.00
04/16/07	AMEND: 2318.6, 2353.1, 2354	05/23/07	AMEND: 2180.1, 2181, 2184, 2185, 2186, 2192, 2194 REPEAL: 2011
03/23/07	AMEND: 2695.8(b)(2)	05/01/07	ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361,
Title 11			
08/08/07	AMEND: 1005, 1007, 1008		
08/01/07	AMEND: 1070, 1081, 1082		
08/01/07	AMEND: 1070, 1081, 1082		
07/31/07	ADOPT: 999.100, 999.101, 999.102, 999.108, 999.114, 999.115, 999.121, 999.122, 999.128, 999.129, 999.130, 999.131, 999.132, 999.133, 999.134,		

	1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421, 1422, 1423, 1424, 1425, and Article 15 text		
04/26/07	AMEND: 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461, 2462		4970.72 REPEAL: 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21, 4970.22, 4970.23, 4970.24, 4970.25, 4970.26, 4970.27, 4970.28, 4970.29, 4970.30, 4970.31, 4970.32
04/26/07	AMEND: 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465	05/03/07	ADOPT: 125.1 AMEND: 125
04/12/07	ADOPT: 2775, 2775.1, 2775.2, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789 AMEND: 2430, 2431, 2433, 2434, 2438	04/30/07	AMEND: 1257
03/26/07	ADOPT: 182.00, 182.01, 182. 02, Form REG 195 (REV. 2/2007) AMEND: Form REG 256 (REV. 9/2005)	04/13/07	ADOPT: 18751.2.1, Form CIWMB 303a, Form CIWMB 303b AMEND: 18751.2 REPEAL: Form CIWMB 303
Title 13, 17		04/02/07	AMEND: 679
06/15/07	AMEND: Title 13, 1969, Title 17, 60060.2, 60060.11, 60060.15, 60060.16, 60060.17, 60060.18, 60060.22, 60060.29, 60060.32, 60060.33, 60060.34	03/27/07	AMEND: 11945
Title 14		03/27/07	AMEND: 11900
07/30/07	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5,	03/26/07	AMEND: 2305, 2310, 2320
07/27/07	ADOPT: 15155, 15190.5, 15191, 15192, 15193, 15194, 15195, 15196, AMEND: 15053, 15061, 15062, 15072, 15073, 15074, 15082, 15087, 15105, 15179, 15180, 15186 REPEAL: 15083.5	03/21/07	AMEND: 7.50
07/19/07	AMEND: 4970.50	03/20/07	AMEND: 790, 815.01, 815.02, 815.03, 815.04, 815.05, 815.06, 815.07, 815.08, 815.09, 816.01, 816.02, 816.03, 816.04, 816.05, 816.06, 817.02, 817.03, 818.01, 818.02, 818.03, 819.01, 819.02, 819.03, 819.04, 819.06, 819.07, 820.01, 825.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.04, 826.05, 826.06, 827.01, 827.02
07/17/07	AMEND: 2305, 2310, 2320		AMEND: 11945
07/10/07	AMEND: 4970.50, 4970.53, 4970.55, 4970.62, 4970.63, 4970.64	Title 14, 27	
06/21/07	AMEND: 7.50(b)(91.1)	03/14/07	ADOPT: Title 27, 21660.1, 21660.2, 21660.3, 21660.4, 21666 AMEND: Title 14, 17388.3, 17388.4, 17388.5, 18077, 18083, 18104.1, 18104.2, 18104.7, 18105.1, 18105.2, 18105.9, Title 27, 21563, 21570, 21580, 21620, 21650, 21660, 21663, 21665, 21675, 21685 REPEAL: Title 14, 17383.10, 17388.6
06/21/07	ADOPT: 2850 AMEND: 2090, 2425, 2530 REPEAL: 2850	Title 15	
06/20/07	AMEND: 3696.5	08/13/07	AMEND: 3190, 3191
06/18/07	AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867	06/26/07	ADOPT: 4034.0, 4034.1, 4034.2, 4034.3, 4034.4, 4036 REPEAL: 4040
06/11/07	ADOPT: 721	06/18/07	ADOPT: 1363 AMEND: 1300, 1302, 1303, 1304, 1311, 1312, 1314, 1320, 1321, 1323, 1324, 1325, 1340, 1341, 1342, 1343, 1350, 1353, 1357, 1360, 1361, 1370, 1374, 1375, 1377, 1378, 1390, 1407, 1437, 1438, 1439, 1450, 1461, 1462, 1480, 1501
06/08/07	ADOPT: 2880	06/05/07	ADOPT: 3999.5
05/29/07	AMEND: 360, 361, 362, 363, 364, 702, 708	05/15/07	ADOPT: 3999.4
05/10/07	AMEND: 27.80	05/02/07	AMEND: 3276(e)
05/10/07	AMEND: 5.51, 7.50(b) (53.8)	04/19/07	AMEND: 3084.1, 3391
05/07/07	ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71,	04/18/07	ADOPT: 3352.2 AMEND: 3350.1, 3352.1, 3354, 3355.1, 3358

04/18/07 AMEND: 2600.1

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08/03/07 AMEND: 1399.541
 08/03/07 AMEND: 2036, 2036.5
 08/01/07 AMEND: 3340.16, 3340.42, 3392.2
 07/16/07 AMEND: 2670
 07/12/07 AMEND: 160
 07/11/07 AMEND: 68.3, 68.4, 88, 88.1, 88.2, 89, 99
 07/10/07 AMEND: 4114
 07/03/07 ADOPT: 4152.1
 06/22/07 AMEND: 1399.170.11
 06/20/07 AMEND: 3303.1
 06/15/07 AMEND: 2070, 2071
 06/12/07 AMEND: 1325, 1339, 1344, 1350.3, 1355.35
 05/30/07 ADOPT: 980.2, 980.3 AMEND: 980.1
 05/23/07 AMEND: 1706.2
 05/04/07 ADOPT: 2516.5, 2518.7, 2576.7
 AMEND: 2502, 2516, 2526, 2526.1, 2530, 2533, 2540.3, 2540.4, 2542.2, 2542.3, 2542.4, 2542.5, 2544, 2544.1, 2544.2, 2544.3, 2544.4, 2547.2, 2547.3, 2547.4, 2547.5 2562, 2575, 2581, 2581.1, 2585, 2587, 2592.3, 2592.4, 2593, 2593, 2593.1, 2593.2, 2593.3, 2593.4
 04/27/07 AMEND: 1387, 1390.3
 04/20/07 AMEND: 2032.4, 2034, 2036, 2036.5
 04/09/07 AMEND: 640, 643
 04/09/07 AMEND: 1388.6, 1381.5
 04/09/07 REPEAL: 356.1
 04/03/07 AMEND: 4202
 04/03/07 AMEND: 1399.101
 03/26/07 AMEND: 919
 03/26/07 ADOPT: 1784
 03/23/07 AMEND: 1399.151.1, 1399.160.2, 1399.160.3, 1399.160.4, 1399.160.5, 1399.160.6, 1399.160.7, 1399.160.9, 1399.160.10
 03/20/07 AMEND: 1803
 03/19/07 REPEAL: 942, 943, 944, 945, 946, 947, 948, 949, 950.6, 950.7, 966

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08/08/07 ADOPT: 94201.1 AMEND: 94201, 94202, 94203, 94204, 94207, 94208, 94209, 94210, 94211, 94212
 07/30/07 AMEND: 2500, 2502, 2505
 07/24/07 ADOPT: 100085
 07/11/07 AMEND: 30315.33, 30316.60, 30317, 30319.20
 06/27/07 AMEND: 54342

06/26/07 AMEND: 60201, 60202, 60205, 60210
 06/14/07 ADOPT: 100300, 100301, 100302, 100303, 100304, 100305, 100306, 100308, 100309, 100310
 05/04/07 ADOPT: 96100
 04/26/07 ADOPT: 93116.3.1 AMEND: 93115, 93116.2, 93116.3
 04/18/07 ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77

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07/30/07 AMEND: 1591
 07/30/07 AMEND: 1591.2
 07/30/07 AMEND: 1591.4
 07/26/07 AMEND: 1586
 07/16/07 AMEND: 1603
 07/10/07 AMEND: 1660
 07/02/07 AMEND: 17952
 06/20/07 ADOPT: 25137-14
 06/05/07 AMEND: 1668
 06/04/07 ADOPT: 1671.1
 05/17/07 AMEND: 1802
 05/15/07 AMEND: 1703
 04/25/07 AMEND: 1620
 04/10/07 AMEND: 1655
 04/10/07 AMEND: 1566
 03/30/07 AMEND: 1571
 03/22/07 ADOPT: 4500, 4501, 4502, 4503, 4504, 4505, 4506, 4507, 4508, 4509, 4600, 4601, 4602, 4603, 4604, 4605, 4606, 4607, 4608, 4609, 4700, 4701, 4702, 4703

Title 19

03/28/07 AMEND: 906.2

Title 20

07/03/07 ADOPT: 1233.5, 1234, 1236.5, 1311, 1346, 1349, 2508 AMEND: 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1341, 1342, 1343, 1344, 1345, 1347, 1348, 1350, 1351, 2501, 2502, 2503, 2504, 2505, 2506, 2507 REPEAL: 1340
 06/11/07 AMEND: 4.1
 03/28/07 AMEND: 1002, 1201, 1207, 1208, 1209, 1209.5, 1216, 1217, 1702, 1708, 1709.7, 1710, 1716, 1717, 1720, 1720.3, 1720.4, 1721, 1744, 1747, 2012-App B REPEAL: 1219, 1720.5, 1720.6

Title 22

08/08/07 ADOPT: 96040, 96041, 96042, 96043, 96044, 96045, 96046, 96050 AMEND: 96000

07/18/07 ADOPT: 69109 AMEND: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107, 69108

07/18/07 AMEND: 4401.5 REPEAL: 4401, 4402, 4432, 4441

07/16/07 ADOPT: 50966 AMEND: 50961, 50962

06/18/07 ADOPT: 67386.5, 67386.6, 67386.7, 67386.8, 67386.9, 67386.10, 67386.11, 67386.12 AMEND: 66261.9.5, Appendix XII, 67386.1, 67386.2, 67386.3, 67386.4

04/23/07 ADOPT: 66261.9.5, 67386.1, 67386.2, 67386.3, 67386.4

04/20/07 ADOPT: 2708(d)–1(a), 2708(d)–1(b), 2708(d)–1(c)

04/19/07 AMEND: 5065, 5101, 5108

04/17/07 ADOPT: 40622, 40635.1, 40635.2, 40648, 40660, 40661, 40733, 40752 AMEND: 40603, 40635, 40743, 40747 REPEAL: 40753

04/13/07 ADOPT: 66267.10 AMEND: 66264.1, 66265.1, 66270.1

03/20/07 AMEND: 926–3, 926–4, 926–5

03/20/07 ADOPT: 69106 AMEND: 69100, 69101, 69102, 69103, 69104, 69106 (renumber to 69107), 69107 (renumber to 69108)

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08/07/07 ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1,

86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588 AMEND: 11–400c, 11–402, 45–101(c), 45–202.5, 45–203.4, 45–301.1

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08/15/07 AMEND: 3939.10

08/14/07 ADOPT: 3939.25

08/09/07 ADOPT: 3949.4

08/02/07 ADOPT: 3967

06/27/07 ADOPT: 3002

06/19/07 ADOPT: 3949.3

05/21/07 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2, 499.6.3 AMEND: 499.1, 499.2, 499.3, 499.4, 499.4.1, 499.5, 499.6, 499.6.1, 499.7, 499.8 REPEAL: 499.6.2

05/18/07 ADOPT: 3959

05/18/07 ADOPT: 3958

05/01/07 AMEND: 645

04/25/07 AMEND: 3983

04/06/07 AMEND: 737, 768, 769, 770, 771, 852

03/23/07 ADOPT: 3989.6

03/20/07 AMEND: 2913

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07/06/07 AMEND: 5060, 5061, 5062, 5064, 5520, 5521, 5530, 5540.1, 5575

05/23/07 AMEND: 6932

04/05/07 ADOPT: 7065.5

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04/13/07 ADOPT: 15186, 15187, and 15188 AMEND: 15100, 15110, 15120, 15130, 15150, 15160, 15170, 15180, 15185, 15187.1 (renumber to 15189), 15190, 15200, 15210, 15220 (amendment and renumbering of 15210(b) to 15220(a)), 15240, 15241, 15250, 15260, 15270, 15280, 15290

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07/30/07 AMEND: 47–201, 47–401

06/26/07 AMEND: 40–118, 43–103, 44–209, 80–301, 82–808

06/25/07 AMEND: 47–110 and 47–301

